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TRANSVAAL.

PAPERS

RELATING TO

LEGISLATION AFFECTING NATIVES IN THE TRANSVAAL.

(*In continuation of* [*Cd.* 714], *July*, 1901.)

Presented to both Houses of Parliament by Command of His Majesty.
January, 1902.

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TABLE OF CONTENTS.

Serial No.	From or to whom.	Date.	Subject.	Page.
		1900.		
			Treatment and Rights of Native Races.	
1	British and Foreign Anti-Slavery Society.	November 9	Submits their views	1
2	Aborigines Protection Society.	December 8	Asks for permission to lay their views before Her Majesty's Government.	2
		1901.		
3	Aborigines Protection Society.	January 11	Submits their views	3
4	To British and Foreign Anti-Slavery Society.	January 21	States that the question is under the consideration of Sir Alfred Milner, and will receive the most careful attention of Her Majesty's Government.	6
5	To Administrator Sir Alfred Milner.	January 26	Encloses copies of Nos. 1 and 4, and asks whether he has considered what changes are necessary in the legislation of the new Colonies in order to bring the position of natives in those Colonies into line with their position elsewhere in South Africa.	6
6	To the Aborigines Protection Society.	February 14	States that the question is under the consideration of the High Commissioner, and will receive the most careful attention of His Majesty's Government.	6
			Acquaintance of Administrative Officers with Native Dialects.	
7	Aborigines Protection Society.	February 22	Points out the desirability of such a knowledge.	7
8	Ditto	March 8	Encloses copy of correspondence with the War Office on the subject.	8
9	To Aborigines Protection Society.	April 4	States what has been done in West Africa: Sir A. Milner's attention is being invited to the question as regards South Africa.	10
			Future Position of Natives in the Transvaal and Orange River Colony.	
10	The South African Native Races Committee.	June 19	Forwards copy of a letter from the Rev. J. S. Moffat, giving his views.	11

10654—2500—1 1902 G 283 Wt 11669 D & S

Serial No.	From or to whom.	Date.	Subject.	Page.
		1901.		
			"The Natives of South Africa."	
11	High Commissioner Lord Kitchener.	June 7 (Rec. June 29)	Forwards copy of a letter from the Honorary Secretary, South African Native Races Committee, transmitting, with remarks, an advance copy of "The Natives of South Africa," together with copy of the reply.	12
			Future Position of the Natives in the Transvaal and Orange River Colony.	
12	To the South African Native Races Committee.	July 4	States that the question of the position of natives in the Transvaal and Orange River Colony is being carefully considered, and that due attention will be paid to the views of competent authorities who are in a position to speak for the natives.	14
			Flogging of Natives.	
13	To Administrator Lord Kitchener.	August 2 Telegram 1.	Learns with satisfaction that the penalty of lashes under the Pass Law has been abolished. Enquires whether similar action is being taken under the Gold Law.	14
14	Administrator Lord Kitchener.	August 5 (Rec. Aug. 5) Telegram 1044.	States that the Proclamation abolishing lashes under Pass Law does not deal with sections of Gold Law referred to; gives views of Legal Adviser on the question.	14
15	Ditto	July 19 (Rec. Aug. 12)	Forwards copy of a Minute by the Legal Adviser to the Transvaal Administration dealing with the penalties under the Pass Law and Gold Law of the Transvaal; states that a Proclamation will shortly be published abolishing lashes for contraventions of the provisions of the Pass Law, except section 18 of the Pass Law on Gold Fields, 1899.	15
16	Ditto	July 26 (Rec. Aug. 17)	Transmits a Proclamation abolishing the penalty except in case stated.	16
			Administration of Justice to Natives.	
17	To Administrator Lord Milner.	August 17	Notes with satisfaction the decision of the Administration of the Transvaal with regard to corporal punishment, but requests a report as to whether the flogging of natives under the Pass Law and Gold Law of the late South African Republic might not be altogether abolished.	17
			Native question.	
18	Administrator Lord Milner.	December 10 (Rec. Dec. 11.) Telegram 557	Reports issue of proclamations affecting the position of natives.	18

Serial No.	From or to whom.	Date.	Subject.	Page.
		1901.	*Position of native labourers in the Transvaal.*	
19	Administrator Lord Milner.	November 29 (Rec. Dec. 23.)	Encloses drafts of proclamations which he is about to issue.	18
			Position of natives.	
20	Ditto	December 6 (Rec. Dec. 28.)	Submits observations on the general question.	21
		1902.		
21	Ditto	December 13, 1901. (Rec. Jan. 9, 1902.)	Transmits copies of a Gazette promulgating the Proclamations of which drafts were enclosed in No. 19.	29
22	To Administrator Lord Milner.	January 21 Telegram 5.	Approves measures submitted, and concurs generally in Administrator's statement of principles which are to guide the native policy of the Administration.	45
APPENDIX containing comparative statement of penalties on Natives under the Pass Law of the Transvaal.				46

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No. 1.

BRITISH AND FOREIGN ANTI-SLAVERY SOCIETY to COLONIAL OFFICE.

(Received November 10, 1900.)

[*Answered by No* 4.]

British and Foreign Anti-Slavery Society,
55, New Broad Street, London, E.C.,
November 9, 1900.

SIR,

Now that the war in South Africa is drawing so near its close, and the time for a settlement of affairs in that country is approaching, the committee of this society desire to express to Her Majesty's Government their deep sense of the importance of the question of the treatment and rights of the native races of South Africa, and of the unique opportunity which is now offered for a broad and comprehensive settlement of this difficult question, and for a decisive declaration against all native slavery, under whatever form of compulsory labour it may be disguised.

They beg to be allowed very briefly to place their views before Her Majesty's Government.

It is well known, and has been admitted by the Prime Minister, that in past struggles in South Africa the interests of the natives, who form such a large proportion of the whole population, have been either entirely overlooked, or regarded only in so far as they are necessary to the welfare of the white settlers. The treatment of the Blacks by the Boers in the Transvaal is well known to have been utterly lacking in humanity; the Uitlanders have, speaking generally, accepted the Boer way of dealing with them, and their treatment by British Colonists, it is to be feared, has not been in practice much better, for the native, whose labour is indispensable to the white man, has been exploited by him for the purpose of obtaining cheap labour, and condemned to a lot which is one of oppression and servitude.

The committee respectfully submit that the British Government and people have a very deep responsibility to these black subject races, who have no means of helping themselves or of presenting their own case; and they venture to point out that if their rights are to be accorded to the natives, the administration must be subject to control by the Imperial Government and must not be left to Colonial sentiment.

The committee therefore earnestly urge Her Majesty's Government to take advantage of this opportunity to settle permanently and declare publicly the rights of all the natives south of the region of the Zambesi, wherever the British flag flies. It is submitted that it is in the highest degree necessary to provide safeguards, especially in mining districts, against the appearance of slavery under the form of apprenticeship, "labour taxation," and the oppressive exercise of Pass and Compound systems which are liable, if not strictly kept within due limits, to gross abuse.

The committee beg to press upon Her Majesty's Government the desirability of the total abolition, along with slave trading and slavery, of all serfage, forced labour and all other forms of involuntary servitude, by whatever name it may be known; and urge that the natives shall enjoy full personal liberty.

The committee further venture to recommend the setting apart of certain Reserved Districts for the native communities, into which natives shall be invited to settle, and from which Europeans, except those who are specially authorised, shall be excluded; such reserves to be under the administration of specially appointed British officers.

They respectfully ask for a declaration that the natives shall have and enjoy the following privileges, which are enjoyed by the natives of India, under Her Majesty's Proclamation of 1858, namely:—

> Freedom of religion, property in land, chattels and cattle, rights of marriage, freedom of locomotion, of assembly, and of the press, equality with Europeans in Courts of Justice.

They would recommend the appointment of special British officers to protect the interests of those natives who live among Europeans, and to maintain supervision over all contracts between employers and employed.

They venture to point out that it is of the first importance, not only for the natives themselves, but also for the Colonists who associate with them, that the black races shall be raised to a higher level of morals and civilization, that if they are sacrificed to the greed of mine owners and other employers of labour, the effect on all classes of society is disastrous. The utmost care, therefore, should be taken that the conditions of native labour may not be such as to reduce the labourers to servitude with its attendant evils.

Finally, the committee would submit that this is an Imperial and not a Colonial question, for no Colony or Colonists yet exist in the conquered provinces of the Transvaal and the Orange River State. But for the success of the British arms these territories would have passed away from the control of Great Britain and her South African Colonies. It is clear that the right to impose involuntary servitude upon the native races was an early and leading cause of the feud between the English and the Boers. And now is the time to declare that such rights on the part of the white races of the community over the coloured races cannot be tolerated in the remotest degree.

The committee earnestly hope that this whole question may be treated in an impartial spirit, worthy of the country which, at great cost, decreed the abolition of slavery in its possessions in the earlier years of the century.

On behalf of the Committee,
We have, &c.,
THOMAS FOWELL BUXTON, President.
TRAVERS BUXTON, Secretary.

No. 2.

ABORIGINES PROTECTION SOCIETY to COLONIAL OFFICE.

(Received December 10, 1900.)

[*Answered by No.* 6.]

Aborigines Protection Society, Broadway Chambers,
Westminster, S.W., December 8, 1900.

SIR,

WITH reference to a communication* which I had the honour of forwarding to you, on behalf of the Aborigines Protection Society, on 11 May concerning the treatment of natives in South Africa, and also to the statement made by you in the House of Commons on 7th instant as to contemplated administrative arrangements in the Transvaal and Orange River Colonies, I am to ask that you will be good enough to allow our Committee to submit to you, by deputation or otherwise, its views in regard, especially, to the position and claims of the native population resident in or imported into

* Not printed.

the portions of South Africa, formerly under the Boer rule, of which Her Majesty's Government has acquired direct and exclusive control.

It appears to our Committee very important that, in the interests of the natives, the great changes affecting their condition and prospects, which are expected to result from the recent war, should from the first be directed on lines equitable to them and without such hindrance or perversion as may be feared in the event of questions as to their position being left in abeyance while more general questions, political and military, are being dealt with. It is submitted that there are grounds for alarm, in this respect, in announcements that have recently been publicly made by representatives of the employers of native labour in South Africa as to proposals which, if allowed to take effect, cannot fail to have grave consequences in other parts of the country as well as in the mining districts of the Transvaal.

For this reason, our Committee will be grateful to you for permission to lay its views on the subject before Her Majesty's Government at an early date.

I have, &c.,
H. R. FOX BOURNE,
Secretary.

The Right Honourable
Joseph Chamberlain.

No. 3.

THE ABORIGINES PROTECTION SOCIETY to COLONIAL OFFICE.

(Received January 12, 1901.)

[*Answered by No.* 6.]

Aborigines Protection Society, Broadway Chambers,
Westminster, S.W., January 11, 1901.

SIR,

I HAVE the honour, by direction of the Committee of the Aborigines Protection Society, and with reference to my letter of 8th December,* to submit to you the following remarks as to the position and claims of the native population in the Transvaal and Orange River Colonies.

It is the earnest hope of our Committee that the arrangements which, as you announced in the House of Commons on 7th December, are now being made for establishing in these territories such orderly government as may conduce to the prosperity of all sections of their white inhabitants, will be accompanied by arrangements no less effective in the interests of the natives, including those whose protection, as you pointed out in the House of Commons on 19th October, 1899, had been undertaken when the Transvaal was annexed in 1881. "Those natives," you then said, "had been our subjects. They were the majority of the inhabitants, and we retroceded to the Transvaal the subjects whom we had promised to protect. How have we kept our promise? The treatment of the natives of the Transvaal has been disgraceful; it has been brutal; it has been unworthy of a civilised power."

Whatever may be the measure of blame attaching to the administrators of the South African Republic, and to those responsible not only for its reconstruction, but also for enforcement of the provisions as regards the treatment of natives which were included in the Conventions of 1881 and 1884, our Committee cannot doubt that it is the intention of Her Majesty's Government now to lay down an equitable and satisfactory policy. It ventures respectfully to urge, however, that for the successful initiation and carrying out of such a policy it is necessary that efficient precautions shall be taken against the tolerance of evils, akin to those which, under somewhat similar conditions, have arisen elsewhere.

It is understood that proposals have been put forward by the owners of mines in the Transvaal with a view to obtaining the assistance of Her Majesty's Government

* No. 2.

in facilitating the supply of native labour by methods resembling those contemplated and already partly in operation in Rhodesia. Against these proposals and against all projects for subordinating the legitimate interests of the natives to the alleged requirements of European employers of labour, our Committee strongly protests.

Although questions affecting the prospects of natives in the mining districts of the Transvaal may be of most immediate importance, it is submitted that an equitable adjustment of the claims of other coloured inhabitants of this and the adjacent territory, who are probably ten times as numerous, is no less necessary.

In the northern and eastern portions of the Transvaal, especially in the Zoutpansberg District, there are at least half a million survivors of tribes that, in spite of frequent and cruel attacks upon them in 1893 and the following years, appear to be in almost the same condition as when the Earl of Kimberley stated, in his despatch of 31st March, 1881, to Sir Hercules Robinson, that "the authority of the Boers was at the time of the annexation scarcely acknowledged," and that "the Boers laid claim to the country and formerly held parts of it, but had been gradually pushed back by the natives, who had virtually regained their independence." Our Committee asks that no time may be lost in delimiting these districts, and placing them, with such sub-division, into administrative areas, as may be found expedient, under control by representatives of the Crown which shall be as generous and shall afford at least as much opportunity for self-government in all local concerns as that which has been so signally successful in Basutoland since its establishment as a Crown Colony in 1884.

The essential conditions of such control are, in the opinion of our Committee, that the institutions of the inhabitants shall be in no way forcibly interfered with except so far as interference may be absolutely necessary for maintenance of peace and good order among them; that their systems of land tenure and tribal organization shall not be disturbed; that they shall not be coerced into supplying more labour in the mines and elsewhere than they intelligently agree to; that they shall be protected by the Government as regards the performance of any labour contracts entered into by them; and that the only hut tax or other administrative charge laid upon them shall be such as is requisite to defray the actual cost of their government in methods approved by them and serviceable to them.

Both in Swaziland, which was placed under the protection of the South African Republic in 1894, and in the portion of Zululand known as the New Republic, which was incorporated with the South African Republic in 1886, the condition of the natives calls for special consideration. As regards the latter, if it is not now possible to restore to them the lands of which they were deprived, it is hoped that steps will be taken to place them on an equal footing with their kinsmen in the fragment of Zululand which was handed over to Natal in 1897. As regards the former, it is hoped that they will be rescued from the arbitrary and unjust arrangements into which, with the sanction of British Authorities, they were enticed and coerced in the course of the twelve years preceding the formal appropriation of their country by the Transvaal Government.

With reference to the natives who have hitherto been in the service of Boer farmers, and who probably number from a fourth to a third of a million, it is the earnest hope of our Committee that, under the British rule, to which they are now to be subject, they will be relieved from oppressive arrangements, which have kept them in a more or less servile condition, and have made it difficult, if not impossible, for them to obtain even such legal protection from tyrannical masters as has been theoretically allowed to them. At the same time, it appears to our Committee not less important that no change should be made in their condition which would deprive them of such advantages as are incident to it; and that while their right to share in all the benefits of the civilisation with which they are brought into contact should be clearly recognised and upheld, no compulsion should be made, either in their own alleged interests or in those of the white settlers. Alike in the farms and in the towns, it is submitted, no more native residents should be encouraged than suitable occupation can be found for under arrangements freely agreed to by themselves and conducive to their welfare, ample space being reserved in the outlying districts for all those who do not care to exchange their own institutions for participation in the life of more civilised communities.

While urging Her Majesty's Government to make adequate provision for the protection of the large majority of the native population with whom few but the Boer Residents in the Transvaal and the Orange State have hitherto had much to

do, and for the safe-guarding of whose interests Great Britain has now again become directly responsible, our Committee asks that a like policy may be zealously pursued in respect of the natives recruited, for the most part from outside countries, for work in connection with the gold mines of the Johannesburg and other districts.

Recent evidence of demands repeatedly put forward by the representatives of mining concerns in the Transvaal was furnished at the annual meeting of the Consolidated Gold Fields of South Africa Company on 6th November last, when its chairman, Lord Harris, stated that Her Majesty's Government had been requested and was expected to take upon itself the duty both of collecting and importing native labour and of "distributing it evenly between the various mines," and also, in addition to more stringent pass-laws and enforcement of the existing liquor laws, to compel natives to work for terms of at least three months under the same employers. That these and all such demands are merely continuations and developments of proposals that their authors made with but partial success to the late Government of the Transvaal is shown by the report of the Industrial Commission of Inquiry held at Johannesburg in 1897, when one of the witnesses, Mr. C. S. Goldman, said, in reference to the Pass-law of 1896, which has been condemned as an instance of Boer oppression of natives, "I wish to point out that it came into existence at the request of the mining industry, that the law was framed by the mining industry, that it was the mining industry that solicited the Government to pay consideration to the proper carrying out of the law." Another witness before this Commission, Mr. G. A. Denny, thus summed up the main objects aimed at by the mine owners in all their appeals to the Government of the South African Republic, while it was in existence, and still avowedly sought after, "The pay of the kaffir should be reduced by nearly one-half of its present rate. The one final method of reducing kaffir pay rests with the Government.

It has the power to create laws which shall compel every able-bodied kaffir to perform a given amount of work per annum."

I am to submit to you that all such proposals and suggestions as the above are opposed to the legitimate interests of the white population in the Transvaal, as well to those of the natives there resident or imported into it; and that it is the duty of Her Majesty's Government to exert the authority it has taken upon itself, not in forcing these natives into a state akin to that of slavery, but in protecting them from the undisguised endeavours of the mine owners and others so to force them.

In the opinion of our Committee, the only pass-law adopted should be one that, conforming to the intention of the originators of the system in Cape Colony, will really facilitate the free movement from place to place, and the intercourse with white men of all natives whom there may not be good reason for excluding from such intercourse, and no other special legislation affecting natives is called for or warranted than that which will ensure them against persecution or contamination by white employers. While it is important that the Transvaal Liquor Law of 1897, as yet rarely acted upon, should be honestly carried out, and that other precautions should be taken to save ignorant natives as far as possible from the temptations to which they are exposed through association with white people, it is still more important that their ignorance and other defects and infirmities should not be taken advantage of, either with legal sanction and assistance, or in contempt of the law by those who claim to be their superiors.

In so far as Her Majesty's Government may deem it expedient to regulate the arrangements for the employment of native labour in the mining districts and other white settlements, and for its collection either from outlying portions of the Transvaal or from more distant parts of South Africa, our Committee ventures to hope that equitable treatment of the natives will be its first consideration, and one that no supposed advantages to the mine owners and others from an unjust policy will be allowed to influence.

I have, &c.,

H. R. FOX BOURNE,

Secretary.

No. 4.

COLONIAL OFFICE to the BRITISH AND FOREIGN ANTI-SLAVERY SOCIETY.

SIR, Downing Street, January 21, 1901.

I AM directed by Mr. Secretary Chamberlain to acknowledge the receipt of your letter of the 9th of November* respecting the future treatment of the native races of South Africa in the new colonies.

I am to request you to inform the Committee of your Society that the question of the position of the natives in the Orange River Colony and the Transvaal is under the consideration of Sir Alfred Milner, and will receive the most careful attention of Her Majesty's Government, who are anxious that the interests and welfare of the native population should be properly safeguarded.

I am to add that a copy of your letter has been transmitted to the High Commissioner.

I am, &c.
H. BERTRAM COX.

No. 5.

MR. CHAMBERLAIN to ADMINISTRATOR SIR ALFRED MILNER.

[*Answered by No.* 20.]

SIR, Downing Street, January 26, 1901.

WITH reference to my despatch of the 7th of September, 1900,† I have the honour to transmit to you, for your consideration, the accompanying copy of a correspondence‡ with the British and Foreign Anti-Slavery Society on the subject of the treatment and rights of the native races in South Africa.

I shall be glad to learn whether you have considered what changes are necessary in the legislation of the Transvaal and of the Orange River Colony, in order to bring the position of the natives in those two Colonies into line with their position elsewhere in South Africa, and to receive any recommendations on this subject which you may desire to make, having regard to opinion both in the Colonies and in this country.

I have, &c.,
J. CHAMBERLAIN.

No. 6.

COLONIAL OFFICE to THE ABORIGINES PROTECTION SOCIETY.

SIR, Downing Street, February 14, 1901.

I AM directed by Mr. Secretary Chamberlain to acknowledge the receipt of your letter of the 11th ultimo,§ on the subject of the position and claims of the native population of the Orange River Colony and the Transvaal.

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* No. 1. † Not printed. ‡ Nos. 1 and 4. § No. 3.

I am to request that you will inform the Committee of your Society that the question of the position of the natives in the new Colonies is under the consideration of the High Commissioner, and will receive, as soon as their civil administration can be organised, the most careful attention of His Majesty's Government, who are anxious that the interests and welfare of the native population should be properly safeguarded.

In your letter of the 8th of December* you stated that the Committee were anxious to lay their views on the subject before Her Majesty's Government at an early date. Mr. Chamberlain was about to request the Committee to put their views in writing, when your second letter was received, and, as he presumes your letter now under reply contains a full expression of those views, he has transmitted copies of both letters to the High Commissioner for consideration in connexion with a letter on the same subject recently received from the British and Foreign Anti-Slavery Society.

I am, &c.,
H. BERTRAM COX.

No. 7.

ABORIGINES PROTECTION SOCIETY to COLONIAL OFFICE.

(Received February 23, 1901.)

[*Answered by No. 9.*]

Aborigines Protection Society, Broadway Chambers,
Westminster, S.W., February 22, 1901.

SIR,

I HAVE the honour, by direction of the Committee of the Aborigines Protection Society, to submit to you, for the consideration of His Majesty's Government, the following remarks as to the importance of holders of administrative posts in Africa being acquainted with the languages and dialects of the native communities controlled or influenced by them.

2. It is submitted that official and other publications afford abundant evidence of the dangers constantly incurred, and the mistakes frequently made, in the administration of districts already under British rule, as well as in dealings with tribes merely within the sphere of British influence, through the inability of representatives of the Crown to make intelligible to them its requirements. Without direct conversation and intercourse with the natives, it is not easy for the confidence in our rule which is necessary for its pacific acceptance to be secured; and so long as responsible officials are ignorant of the languages spoken in the districts committed to their care, they will inevitably be more or less at the mercy of subordinate interpreters, whether Europeans or natives, comparatively irresponsible, on whose accuracy and good faith absolute reliance ought not to be placed. Our Committee has strong grounds for believing that in many instances grave failures in the administration of justice and the conduct of negotiations have resulted from such subordinates being in a position to mislead their employers.

3. Although the languages spoken in Africa are very numerous, and although familiarity with their details cannot be expected from officials, otherwise competent representatives of the Crown, who are liable to frequent transference from one locality to another in other parts of His Majesty's dominions as well as in Africa, it is submitted that there are probably not more than three or four fundamental forms which those acquainted with them could readily utilise in acquiring such knowledge of local variations as would suffice for the proper exercise of any administrative functions that may devolve upon them. It is this general and intelligent acquaintance with the fundamentals of African

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* No. 2.

vernaculars that our committee now ask His Majesty's Government to require from all to whom it assigns responsible positions in Africa.

4. Our committee has had before it several instances of officers or civilians deputed for service in South Africa and other parts who are anxious to prepare themselves for efficient performance of their duties by familiarising themselves with the languages of those with whom they will be in contact, and efforts to supply this demand are now being made at King's College, London, and elsewhere. Any encouragement that His Majesty's Government may see its way to give, perhaps by small subsidies, as well as in other ways, cannot fail to be very helpful.

5. I am to point out that the policy here urged has been found essential to the successful administration of British India, and that the Secretary of State for War offers additional stipends or gratuities for proficiency in the Russian, Arabic, Turkish, Chinese, Indian, Cingalese and other languages, as well as in the dialects used in Hong Kong, the Straits Settlements, and Mauritius : also that great benefits are attributable to the selection of military officers acquainted with Arabic for service in civil and other capacities in East Africa and elsewhere. Of these languages Arabic alone is of any importance in Africa, and acquaintance with it, even in North Africa, is of much less value than would be familiarity with the vernaculars of the great majority of the population. It is hoped that His Majesty's Government will see its way to make arrangements on similar lines for promotion if not insistence upon the acquisition of a sufficient acquaintance with the fundamentals of the Bantu, Negro and other languages and dialects spoken in South, West and East Africa.

6. Our committee is aware of the serious difficulties in the way of complete adoption of the course here suggested. But, with confidence that great benefit would result from even tentative measures, encouraging, and perhaps subsidising, acquaintance with the principal languages of Africa by all officials deputed to responsible administrative positions in that continent, it respectfully and earnestly invites the favourable consideration of its suggestion by His Majesty's Government.

I have, &c.,

H. R. FOX BOURNE,

Secretary.

No. 8.

ABORIGINES PROTECTION SOCIETY to COLONIAL OFFICE.

(Received March 9, 1901.)

[*Answered by No.* 9.]

Aborigines Protection Society,

Broadway Chambers, Westminster, S.W., March 8, 1901.

SIR,

WITH reference to my letter of 22nd February*, as regards the importance of holders of administrative posts in Africa being acquainted with the languages of the native communities under their control, I have the honour, by direction of the Committee of the Aborigines Protection Society, to invite Mr. Secretary Chamberlain's attention to the enclosed copy of correspondence between it and the Secretary of State for War.

I have, &c.,

H. R. FOX BOURNE.

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* No. 7.

Enclosure 1 in No. 8.

ABORIGINES PROTECTION SOCIETY to WAR OFFICE.

Aborigines Protection Society,
Broadway Chambers, Westminster, S.W., February 22, 1901.

SIR,

I HAVE the honour, by direction of the Committee of the Aborigines Protection Society to invite your attention to the enclosed copy of a letter which has been addressed to the Secretary of State for the Colonies.

As His Majesty's Forces are now largely employed in Africa, and as grave and various responsibilities in dealing with native chiefs and tribes devolve on their officers in their military capacity, as well as in the administrative posts to which many of them are temporarily transferred by arrangement with the Foreign and Colonial Departments, I am respectfully to submit to your consideration the expediency of adding the principal African languages to those for acquaintance with which, on the part of officers and others in His Majesty's service, encouragement is offered in Articles 205, 223A, 370, 614, 737A, 786A, and 1261A of the Royal Warrant.

I have, &c.,
H. R. FOX BOURNE,
Secretary.

The Secretary of State
for War.

Enclosure 2 in No. 8.

WAR OFFICE to ABORIGINES PROTECTION SOCIETY.

War Office, London, S.W., March 2, 1901.

SIR,

WITH reference to your letter of the 22nd ultimo, conveying the suggestion that rewards should be offered with a view to encouraging the study by officers and others in His Majesty's service of the principal African languages, I am directed by the Secretary of State for War to acquaint you that Mr. Brodrick and the Commander-in-Chief are quite prepared to consider the advisability of adding the principal African languages to those for which rewards are given but they would be glad, in the first instance, to be favoured with the opinion of your Committee as to what languages it is proposed should be studied.

I have, &c.,
A. M. DELAVOYE,
Col. A.M.S.

The Secretary,
Aborigines Protection Society,
Broadway Chambers, Westminster, S.W.

Enclosure 3 in No. 8.

ABORIGINES PROTECTION SOCIETY to WAR OFFICE.

Aborigines Protection Society,
Broadway Chambers, Westminster, S.W., March 8, 1901.

SIR,

I HAVE the honour, by direction of the Committee of the Aborigines Protection Society, to acknowledge the receipt of your letter of the 2nd instant, and, in doing so, to thank the Secretary of State for War for his favourable consideration of its suggestion as to the encouragement of the study of African languages by officers who may be employed in the countries in which they are spoken.

In answer to the request conveyed in your letter, I am to state that, in the opinion of our Committee, acquaintance with the Zulu, Swahili, Somali, Yoruba, and Hausa languages appears to be especially desirable in view of the objects aimed at in its appeal.

Without entering into details, which our Committee will be glad to furnish if desired, and with deference to the views of expert authorities whom His Majesty's Government may wish to consult, I am briefly to submit that, according to its information, acquaintance with the five languages named may be expected to be most serviceable for the reasons that they are (1) in use among the most numerous African communities with which British administrators are at present in contact ; (2) the most serviceable as keys or preliminaries to an understanding of local dialects and variations which may be easily acquired by those familiar with them ; and (3) within easiest reach of study through text-books and teaching appliances at present available.

It is submitted (1) that a familiarity with Zulu would open the way to comprehension of nearly all the dialects spoken by the Bantus south of the Zambesi, and also in British Central Africa ; (2) that Swahili, though it may be an inferior Bantu dialect, is the one most widely used in Central Africa ; (3) that the Somali language appears to supply the basis for acquaintance with the Hamitic languages that are most in vogue on both sides of the Nile ; (4) that Yoruba is presumably the most widely used, if not also the most fundamental, of the languages spoken by the pagan communities in West Africa ; and (5) that the Hausa language is already recognised as the most important medium of communication among the Mahommedan communities in and near West Africa, and over whom British influence is rapidly extending.

I have, &c.,
H. R. Fox Bourne,
Secretary.

The Under Secretary
of State for War.

No. 9.

COLONIAL OFFICE to ABORIGINES PROTECTION SOCIETY.

Sir, Downing Street, April 4, 1901.

I am directed by Mr. Secretary Chamberlain to acknowledge the receipt of your letters of the 22nd February and 8th March,* with regard to the importance of a knowledge of native languages in connection with the administration of territories in Africa.

2. Mr. Chamberlain agrees with the Aborigines Protection Society in thinking it very important that the holders of administrative posts should be acquainted with the languages of the native communities, and the matter has not failed to engage the attention of the local governments in West and South Africa.

3. In West Africa the Governments of the Gold Coast and Lagos have for some years past encouraged the study of the Haúsa and Yoruba languages, and also of the Fanti or Tchie and the Accra or Ga languages, by offering gratuities to officers who have acquired a certain proficiency in them and by giving preference in cases of promotion to such officers, and in Nigeria it is now proposed to encourage the study of Nupé as well as Haúsa and Yoruba ; but as the Society is no doubt aware, the ordinary difficulties of securing proficiency in native languages, which have no currency or use outside a limited district, are greatly increased in West Africa by the fact that owing to the climatic conditions the European officials are unable to settle in the country and make it their home.

4. As regards South Africa I am to add that Sir A. Milner's attention is being invited to the Society's representation.

I am, &c.,
H. BERTRAM COX.

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* Nos. 7 and 8.

No. 10.

THE SOUTH AFRICAN NATIVE RACES COMMITTEE to COLONIAL OFFICE.

(Received June 20, 1901.)

[*Answered by No.* 12.]

SIR, 15, Dean's Yard, Westminster, S. W., June 19, 1901.

I HAVE the honour to enclose a copy of a letter which the South African Native Races Committee has received from one of its South African Members, the Reverend J. S. Moffat, C.M.G., in reference to the future position of the Natives in the Transvaal and Orange River Colonies.

Mr. Moffat's qualifications to speak on the subject are, no doubt, well-known to you. As a Resident Magistrate, and as a missionary he has had an exceptionally wide knowledge of Native Affairs; and he appears to represent a considerable and important body of opinion in South Africa. In respectfully calling your attention to his letter we would venture to ask that the views which he expresses may receive careful consideration.

I should mention that we propose to forward copies of Mr. Moffat's letter to Lord Milner and Sir Godfrey Lagden.

I have, &c.,
ALFRED F. FOX,
Joint Hon. Secretary.

Enclosure in No. 10.

REVEREND J. S. MOFFAT, Cape Town, to the SOUTH AFRICAN NATIVE RACES COMMITTEE

MY DEAR SIR, Mowbray, Cape Town, May 29, 1901.

WHEN your circular of May 3rd reached me by last week's mail, I was just on the point of writing to ask your assistance. There has been a movement here, not denominational or even distinctly clerical to address the Colonial Secretary in a memorial signed by ministers of religion and leading laymen; not a great number of persons, but rather a smaller collection of well-known and representative people. There has been a general and willing response, but difficulty and delay have arisen in settling the exact terms of the address, and the vastness of the area over which correspondence has to be conducted makes the process a slow one.

The main idea, upon which all are substantially agreed, is to impress upon the Imperial Government the fact that there is in South Africa a body of public opinion which has a right to speak on behalf of the natives. Whether we shall succeed within any reasonable time in getting such an address completed and forwarded is doubtful, but meanwhile it has been suggested to me, by others, that as an individual who has had a good deal to do with native matters in South Africa, I should make an attempt to get the ear of the Colonial Secretary, and state my own views on the native question, for which, of course, I am alone responsible; though it is only fair to say that they are the views of a large and influential class with whom I have been in conference.

There is no doubt that strong pressure will be brought to bear on the Colonial Office in the settlement of the Northern Territories, in a direction not friendly to the native. That pressure may be expected from two quarters. There are first those who, in their anxiety to conciliate the Boers, will be disposed to do so by yielding to their prejudice against the granting of civil and legal rights to the natives. In other words they would sacrifice the natives.

Then there is a much more dangerous class, because their power is growing and will grow, the men who are developing the mineral wealth of South Africa.

Many of these men make no secret of their intention to use the native simply as so much material to be used (and for that matter used up) for labour purposes without any reference to his rights as a human being.

I, in common with many others, have been thankful to see the tone which was adopted on our side with regard to the native in the negotiations with Louis Botha. What I am mainly desirous of is to remind the Colonial Secretary that though he has not yet heard their voices as loudly and as clearly as might have been, yet there is in South Africa a strong and respectable body of opinion on this subject; and I may say without presumption that we heartily back up the attitude of the Imperial Government; and hope that nothing will induce the Government to abandon that attitude. In general terms we ask that the native may in the new territories be granted the same legal status as that he enjoys in the Cape Colony. Not that the Cape Colony system is perfect, but we accept it as the best that is practicable under the circumstances. But there is one notable exception. The Cape Colony stands alone in all South Africa in its liquor regulations as applied to natives. I hope that the wise and commendable attitude of the late Orange Free State on this point will be maintained and continued. Even in Transvaal the old law was good, theoretically, though a dead letter in practice.

I am aware that there is something illogical in asking for a native legal and civil rights and yet refusing him the right to purchase liquor, but the world is not governed by pure logic. We are bridging over for him the passage from barbarism to civilisation, and making it safer and easier by a restrictive measure of this kind. Moreover, there is good reason to believe that a vote taken from all thoughtful and responsible persons among the natives themselves would give a strong majority in favor of laws which would defend them from European liquor.

I ask for the native in the new territories that he may have this protection; also

That he may have the legal right to acquire and to own land by personal title in his own name.

That he may have the same access to the means of education as other men.

That he may have the same protection of the law as other men.

That he may have the same right to legal marriage.

I am aware that there is nothing new or original in this; it has all been said before, but when considerations are likely to be urged on the other side, there is nothing for it but persevering importunity.

Your, &c.,
J. S. Moffat.

To the Secretary,
South African Native Races Committee.

No. 11.

High Commissioner LORD KITCHENER to Mr. CHAMBERLAIN.

(Received June 29, 1901.)

Sir, High Commissioner's Office, Johannesburg, June 7, 1901.

I have the honour to enclose, for your information, copies of the undermentioned documents on the subject of a publication by the South African Native Races Committee, entitled "The Natives of South Africa."

I have, &c.,
KITCHENER,
High Commissioner.

Schedule of Enclosures.

1. March 29th, 1901. From the Honorary Secretary, South African Native Races Committee.
2. May 7th. 1901. To the Honorary Secretary, South African Native Races Committee.

Enclosure 1 in No. 11.

HONORARY SECRETARY TO THE SOUTH AFRICAN NATIVE RACES COMMITTEE to HIGH COMMISSIONER.

SIR, 15, Dean's Yard, Westminster, S.W., March 29, 1901.

ON behalf of the South African Native Races Committee, I have the honour to forward Your Excellency by this mail an advance copy of "The Natives of South Africa," which will be published by Mr. John Murray of Albemarle Street, London.

This volume contains a report prepared by a Committee composed of persons of many shades of opinion, but united in their interest in, and sympathy with the natives of South Africa. In the preparation of the report the Committee have been greatly assisted by many gentlemen of large experience resident in South Africa, some of whom are, no doubt, well known to Your Excellency. Their names will be found on pages 251-4 of the report.

The Committee feel how much the cause in which they are deeply interested depends at this juncture on Your Excellency's action and decisions; and they hope that, notwithstanding the many pressing calls upon your time, you will be good enough to consider the proposals which the Committee have ventured to submit. They are made, it will be seen, with a full appreciation of the practical difficulties of the situation, but in the belief that Your Excellency will be glad to receive suggestions from those who have endeavoured to study the question with no other object in view than the welfare of the natives.

I have, &c.,
ALFRED F. FOX,
Joint Honorary Secretary.

To His Excellency
Sir Alfred Milner, G.C.M.G., K.C.B.,
High Commissioner of South Africa,
Pretoria.

Enclosure 2 in No. 11.

IMPERIAL SECRETARY to HONORARY SECRETARY OF THE SOUTH AFRICAN NATIVE RACES COMMITTEE.

SIR, High Commissioner's Office, Johannesburg, May 7, 1901.

I AM directed by His Excellency the High Commissioner to acknowledge with thanks, the receipt of your letter of the 29th March, enclosing a copy of "The Natives of South Africa."

His Excellency had no time before leaving South Africa, to make himself fully acquainted with the contents of the book, but he directed me to assure you that he fully recognises the importance of the questions dealt with, which are constantly engaging his attention, and to promise that the views and suggestions of your Committee will be most carefully considered by him.

I have, &c.,
F. PERRY,
Acting Imperial Secretary.

The Honorary Secretary
To the South African Native Races Committee,
15, Dean's Yard,
Westminster, S.W.

No. 12.

COLONIAL OFFICE to THE SOUTH AFRICAN NATIVE RACES COMMITTEE.

SIR, Downing Street, July 4, 1901.

I AM directed by Mr. Secretary Chamberlain to acknowledge the receipt of your letter of the 19th of June,* enclosing a copy of a letter which the South African Native Races Committee have received from the Rev. J. S. Moffat, on the subject of the future position of the natives in the Transvaal and Orange River Colony.

As the Committee are aware, the question of the future position of the natives in these Colonies is being carefully considered by His Majesty's Government, and Mr. Chamberlain desires me to add that, in dealing with this question, due attention will, of course, be paid to the views of competent authorities who are in a position to speak for the natives.

I am, &c.,
H. BERTRAM COX.

No. 13.

MR. CHAMBERLAIN to ADMINISTRATOR LORD KITCHENER.

(Sent 6.30 p.m., August 2, 1901.)

TELEGRAM.

[*Answered by No.* 14.]

August 2. No. 1. Matter most urgent.

Referring to your telegram No. 1038† I am glad to learn that penalty of lashes under Pass Law has been abolished except under section 18. This section will be considered by Milner on his return. Meanwhile penalty of flogging under Gold Law should, I think, be treated in similar manner. Is this being done? Question will be raised in House of Commons Tuesday as to action to be taken with regard to sections 149, 150, 151 of Gold Law.

No. 14.

ADMINISTRATOR LORD KITCHENER to MR. CHAMBERLAIN.

(Received 3.10 p.m., August 5, 1901.)

TELEGRAM.

[*Answered by No.* 17.]

August 5. No. 1044. Matter most urgent. In reply to your telegram of 2nd August No. 1‡. Proclamation abolishing penalty of lashes under Pass Law does not deal with sections of Gold Law you refer to. Section 149 of this Law I am advised is an offence which must be severely dealt with. Legal Adviser thinks penalty provided by this section should not be altered till he has had opportunity discussing it with Lord Milner. Section 150 of Gold Law is now obsolete and has been replaced by Sections 16 and 23 of Pass Law of 1899. Legal Adviser says penalty of lashes under Section 151 is not imperative, and there is no fear with present magistrates of there being any abuse of discretion given them under that section.

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* No. 10. † No. IX. in [Cd. 714]. ‡ No. 13.

No. 15.

ADMINISTRATOR LORD KITCHENER to MR. CHAMBERLAIN.

(Received August 12, 1901.)

[*Answered by No.* 17.]

SIR, Pretoria, July 19, 1901.

WITH reference to your telegram, No. 1, of the 9th of July,* asking on what grounds it is held that the Pass Law of 1899 is valid, and to previous correspondence on the same subject, I have the honour to forward to you, herewith, a copy of a Minute by the Legal Adviser to the Transvaal Administration dealing with the penalties under the Pass Law and Gold Law of the Transvaal. I have signed a Proclamation, which will be published in the course of a few days, abolishing the penalty of lashes for contraventions of the provisions of the Pass Law save for a contravention of Section 18 of the Pass Law on Gold Fields, 1899, for the reasons set forth in Mr. Solomon's minute.

The Proclamation also makes valid the Pass Law on Gold Fields from the date of its first publication so as to avoid any question hereafter as to its validity.

I have, &c.,
KITCHENER,
General, Administrator.

Enclosure in No. 15.

MINUTE.

Penalties under the Pass Law and Gold Law of the Transvaal.

The Pass Law of 1899 was provisionally declared in force by the Executive Council by virtue of Article 4 of the Gold Law, No. 15 of 1898, which empowers the State President, with the advice and consent of the Executive Council, to make rules and regulations for the regulation of matters mentioned in the law, including provisions for penalties and taxes. (See translation of Article 4, annexed hereto.)

Article 150 of the Gold Law deals with passes for natives and, consequently, the Executive Council had authority to draw up regulations dealing with this matter. Article 4 of the Gold Law further provides that such regulations shall have the force of law from the date of publication in the "Staats Courant," and that they shall be laid before the Volksraad in the first ensuing session. As a matter of fact the Pass Law Regulations published in 1899 were never submitted to the Volksraad, presumably, because that body was too busy with other matters, and so they have never been repealed, amended, confirmed or otherwise dealt with by the Volksraad, and although called the Pass Law, they are really regulations made under the Gold Law, and are in force only in areas in which the Gold Law operates, that is in proclaimed Fields. The validity of these regulations or Pass Law has never been questioned, although they were in force nine months before the commencement of the war. As I have myself some doubt as to their validity, I think it better, in order to remove any doubts that may exist, that a Proclamation be issued by His Excellency the Administrator, making the said Law or Regulations of legal force and effect in the Transvaal from the date of the publication thereof in the "Staats Courant," to wit, the 1st February, 1899.

Even if the Pass Law Regulations of 1899 had never been passed by the Executive, natives would have been subject to the penalties of Law 31 of 1896, which provides that a native who is without a pass shall be liable to a fine not exceeding £3 or imprisonment for a period not exceeding three weeks with hard labour, for the first offence, and a fine not exceeding £5 or imprisonment for a period not exceeding four weeks with hard labour, for the second offence, and to lashes in the discretion of the Court for

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* No. VII. in Cd. 714.

any subsequent offence; and, that a native who commits any of the offences mentioned in Article 18 of the Law of 1899 shall be liable to "a fine not exceeding £5 with imprisonment for a period not exceeding one month with hard labour or lashes not exceeding 25 in number."

It is true that the Law of 1899 provides a minimum sentence, but by proclamation No. 11 of 24th June, 1901, this has been abolished, and the Magistrates have a discretion in determining the penalty to be inflicted. Before the minimum sentence was abolished the Magistrates used to send the records of all cases under the Pass Law to the Legal Adviser to the Transvaal Administration, who recommended the High Commissioner to remit the greater portion of the sentence, and so even then the natives were not harshly treated. Not a single instance has occurred in which the Magistrate has sentenced a native to be flogged for contravening the provisions of the Pass Law. I am myself strongly in favour of abolishing the penalty of lashes for contravention of the Pass Law Regulations excepting in the case of a contravention of clause 18, which practically amounts to fraud. I think, with the power of review which now exists of the sentences imposed by Resident Magistrates, and the directions which have been issued to them about lashes, the penalty of lashes for contravention of that section may be left standing.

On these lines I shall at once draft a proclamation dealing with the penalties provided for by the Pass Law, for submission to His Excellency the Administrator.

RICHARD SOLOMON.

July 15, 1901.

Law No. 15 of 1898.

Chapter 1.

Power of State President to draw up Regulations.

4. The State President shall have the power, with the advice and consent of the Executive Council, to make rules and regulations, whether general or special (for instance for one or more fields), for the regulation of matter mentioned in this law or connected therewith, provided they are not in conflict with this law.

Under the rules and regulations mentioned in this article are also included provisions for penalties and taxes. These rules and regulations shall have the force of law from the date of publication in the "Staats Courant"; they shall be laid before the Volksraad at the first ensuing session.

Special rules and regulations shall be of force on every proclaimed field immediately after proclamation in the "Staats Courant."

Alterations and Additions.

The State President shall have the power, with the advice and consent of the Executive Council, to make any alterations in, or additions to, the special rules upon the proposal of the Mining Commissioner, in consultation with the Head of the Mining Department.

Such alterations or amendments shall be of force 14 days after publication in the "Staats Courant."

No. 16.

ADMINISTRATOR LORD KITCHENER to MR. CHAMBERLAIN.

(Received August 17, 1901.)

SIR, Pretoria, July 26, 1901.

I HAVE the honour to forward to you, herewith, twelve copies of Proclamation, Transvaal No. 19 of the 23rd July.

I have, &c.,
KITCHENER,
General, Administrator.

Enclosure in No. 16.

Transvaal No. 19 of 1901.

PROCLAMATION,

To Amend Law No. 23 of 1899,

By His Excellency BARON KITCHENER OF KHARTOUM, Knight Grand Cross of the Most Honourable Order of the Bath, Knight Grand Cross of the Most Distinguished Order of Saint Michael and Saint George, General Commanding-in-Chief His Majesty's Forces in South Africa, High Commissioner for South Africa and Administrator of the Transvaal, &c., &c.

Whereas it is deemed desirable to abolish the penalty of lashes imposed by Law No. 22 of 1895, and by the Native Pass Law on Gold Fields, approved and provisionally declared in force by Executive Council Resolution, Article 109, dated 31st January, 1899, and published in the "Staats Courant," dated 1st February, 1899:

And whereas doubts have arisen as to whether the said Native Pass Law on Gold Fields is of legal force and effect:

Now, therefore, by virtue of the authority in me vested, I do hereby declare, proclaim, and make known as follows:—

1. The penalty of lashes provided by Law No. 22 of 1895 and by the said Native Pass Law for Gold Fields of 1899, shall, save and except for a contravention of Section 18 of the latter law, be and is hereby abolished; and from and after the taking effect of this Proclamation, it shall not be competent for any Court of Law within this Colony to impose a sentence of lashes on any person convicted of a contravention of any of the provisions of the said Laws, save and except for a contravention of Section 18 of the said Native Pass Law for Gold Fields of 1899.
2. The said Native Pass Law for Gold Fields of 1899, shall be deemed and taken to be of the same force and effect as if it had been duly confirmed by the First Volksraad of the late South African Republic prior to the date of any publication thereof in the "Staats Courant," and all things heretofore done and any liability or penalty heretofore incurred in respect of the said Law shall be as valid as if the said Law had been confirmed as aforesaid.

GOD SAVE THE KING.

Given under my Hand and Seal at Pretoria this 23rd day of July, 1901.

KITCHENER,
Administrator of the Transvaal.

By Command of His Excellency the Administrator of the Transvaal,

RICHARD SOLOMON,
Legal Adviser to the
Transvaal Administration.

No. 17.

MR. CHAMBERLAIN to ADMINISTRATOR LORD MILNER.

MY LORD, Downing Street, August 17, 1901.

I HAVE the honour to acknowledge the receipt of Lord Kitchener's telegram, No. 1044, of the 5th instant,* relative to certain provisions of the Pass Law and the Gold Law of the late South African Republic under which the penalty of corporal punishment may be inflicted upon natives. I have also received Lord Kitchener's despatch of the 19th of July.†

2. I note with satisfaction that the Administration of the Transvaal have given this question their prompt consideration, and have no desire to allow the penalty of lashes to be inflicted under these Laws except in the case of offences which require to be severely dealt with; but it is most desirable that corporal punishments should be restricted to the utmost extent possible, and I have, therefore, to request you to be good enough to consider and report to me at your earliest convenience whether the flogging of natives under the above-mentioned laws might not be entirely abolished.

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* No. 14. † No. 15.

3. For my own part I am of opinion that even the offences dealt with under Section 18 of the Pass Law and Section 149 of the Gold Law, although of a serious character, and, as such, calling for more severe treatment than other offences to which those laws relate, are not of a nature which should be punished by the infliction of lashes. In considering this question you will doubtless bear in mind our conversations on this subject, and the strong desire which I expressed that the laws affecting native labour in the Transvaal should be assimilated as nearly as possible to those in force in the West Indies.

I have, &c.,
J. CHAMBERLAIN.

No. 18.

ADMINISTRATOR LORD MILNER to MR. CHAMBERLAIN.

(Received 3 a.m. December 11, 1901.)

TELEGRAM.

December 10. No. 557. A Gazette which appears to-day contains several Proclamations dealing with the native question, of which the most important are a new Pass law and Liquor law. Final drafts of these with a Memorandum from Lagden were sent to you by the mail before last. A long explanatory despatch went by last mail and the Gazette itself will be forwarded by next mail. Some legislation of the kind had become urgently necessary as number of natives coming to work in the mines is increasing. The Proclamations ought indeed to have been issued a month ago, but they involved much work and had to be revised over and over again. In framing them particular regard has been had to the views which His Majesty's Government has publicly expressed on this subject and also to our private conversations in which you expressed your wishes in this matter repeatedly.

The general policy of the Proclamations will, I have no doubt, meet with your approval. Experience will no doubt show some defects, but these can be amended by Ordinance or by subsequent Proclamations.

No. 19.

ADMINISTRATOR LORD MILNER to MR. CHAMBERLAIN.

(Received December 23, 1901.)

High Commissioner's Office, Johannesburg,
November 29, 1901.

SIR,

I HAVE the honour to transmit copies of several Proclamations,* dealing with the position of native labourers in the Transvaal, which will be published immediately.

The extension of the area of country, which is gradually returning to a settled condition, and the increasing activity on the mines, has rendered some legislation urgently necessary. Martial Law, though still existing throughout the whole country, is a clumsy instrument for dealing with the ordinary relations of civil life, and it was impossible for us to fall back on the old Transvaal laws, without amendment.

Under ordinary circumstances I should have preferred to submit measures of this importance to the consideration of His Majesty's Government, before promulgation. But the heads of departments principally concerned, viz.:—The Legal Adviser and the Commissioner of Native Affairs, are strongly of opinion that no time should be lost in immediately putting the Pass Law and the laws directly connected with it, and also the law prohibiting the supply of liquor to natives, on a better footing.

I have therefore decided to publish the Proclamations next week. They are the result of an immense amount of labour, principally falling on the two gentlemen just named, and of the most anxious consideration on my own part and on that of all the officials, who will constitute the future Executive Council of the Transvaal. I am satisfied that they represent a very great improvement on existing laws, and that in their general aim they are in accordance with the policy which His Majesty's Government desire to see pursued in native affairs.

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* See enclosures in No. 21 for the proclamations as issued.

I do not flatter myself that they are likely to be found altogether perfect. Some defects in them will doubtless be discovered in the working, while there may be points of detail on which His Majesty's Government will desire to see them modified. But any such amendments can easily be made by Proclamation or Ordinance, and in the meantime we shall be able to proceed with the organization of a system which, in its main outlines, I feel confident will not be disturbed.

The enclosures are the drafts as finally settled.* I send them on to save time, as I am anxious that you should be informed at the earliest possible date of the action being taken in the matter. Copies of the Gazette, containing the Proclamations which will be issued in a day or two, will be despatched by next mail.

I also enclose a memorandum from Sir Godfrey Lagden, explaining the necessity for and objects of, the series of Proclamations. I should have desired to have accompanied this memorandum by a more general statement of my own as to our native policy in the new colonies—a statement which would at the same time answer a number of inquiries addressed to me on the subject in your despatches of 26th January, 14th February, 12th April and 17th August.† Pressure of other business has prevented my completing that statement, but I hope to send it by next mail.

I have, &c.,
MILNER,
Administrator and High Commissioner.

Enclosure in No. 19.

MEMORANDUM by Sir Godfrey Lagden, Commissioner for Native Affairs, upon Proclamations relating to:—

1. General Pass Regulations.
2. Special Regulations for Labour Districts.
3. Regulations for controlling, procuring, and engaging of native labourers and their management at mines. (Labour Agents and Compound Overseers.)
4. Coloured Person's Exemption.
5. Prohibition of supply of Intoxicating Liquor to Coloured Persons. (Amendment of Law 19 of 1898.)

Many of the Laws and Regulations in force under the late Transvaal Republic for the government of natives were sound in principle, though their administration was notoriously defective. On the other hand, there were some principles embodied in that legislation, which are contrary to the policy as regards native affairs which has always been followed by the Imperial Government.

Our immediate object should be to deal carefully with existing laws, preserving any that are in keeping with the general policy of His Majesty's Government, adapting and amending others that are repugnant or conflicting, and framing special regulations where necessary.

There is more to be gained by effective administration than by violent legislative changes, which are calculated always to confuse the native mind and to disturb the general community.

More especially at this juncture are caution and care required. The war which has prevailed throughout South Africa for over two years cannot fail to have exercised a considerable influence upon the intellect of the natives. They have seen their hereditary enemies the Boers gradually deposed from militant authority in the Republics, and divested of governing power. They are aware that the abuse of the lash has been removed, are under the impression that the use of it is prohibited, and are displaying contempt for other forms of punishment. They are instinctively quick to grasp such features, and to presume upon the prospect of administrative leniency which they believe will be extended to them and lead to their gaining an ascendancy attractive to themselves but undesirable in the general interests of the dominion.

There are, therefore, powerful reasons why, whilst having due regard to the granting of justice and protection to the natives and safe-guarding their interests, it is of paramount importance to exercise over them a firm control, and to establish sound

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* See Enclosures in No. 21 for the proclamations as issued.

† Nos. 5 and 17; the despatches of 14th February and 12th April merely transmitted copies of Nos. 2 and 3 and Nos. 8 and 9 respectively.

relations between them and the European population; for upon good and suitable relations between black and white much of the future prosperity of the Dominion depends.

Occasion has first arisen to amend and amplify the General Pass Law.

I am convinced of the necessity of all natives being compelled to carry passes, as much for the security and protection of themselves as for the white people. But, under the Republic all Coloured persons were under disabilities in the matter of locomotion. Although the Law appeared reasonable, a Pass for travelling on private business was granted much at the caprice of Officials and Masters, and it often entailed the rendering of personal service to a Field-Cornet, or some kind of exaction before such Pass was granted.

Under the proposed regulations it is competent for a native to obtain a Pass without restriction at any time for the purpose of visiting or personal business, provided it is not in violation of any contract of service into which he may have entered. Genuine freedom of movement is thus secured to him.

The regulations for Labour Districts have been more or less specially framed. They are based upon a Passport System, under which the coloured labourer is held to be a responsible person, and is the custodian of a Passport designed to carry him from his home to the gold fields and back again.

By this system it is purposed to record on the Passport and in the Registry the whole of a man's service, his movements and character, and so to control his career as to check the vicious habit of desertion formerly prevailing.

Probably nothing tended more in the past to justly infuriate employers of labour than the wholesale desertion and contempt for contracts shown by native labourers, who were instigated thereto by unscrupulous white agents. The persons engaged in the recruitment of native labour were, as a class, unprincipled and irresponsible, and their influence was injurious both to the natives and the employers.

In order to expedite the demise of this degraded agency, and to provide for its exit, measures have been framed to regulate the whole question of procuring and engaging labourers from all parts by making it a licensed profession or calling. In future only persons, of whose reputable character the authorities are satisfied, will be allowed to engage in the business of recruiting labour, and they will be subject to stringent regulations in the conduct of it.

Similarly, the calling of a Compound Overseer, upon whom devolves the charge of collective bodies of native labourers is, in future, to be a licensed occupation under Government Regulations, the infringement of which will entail substantial penalties.

Whilst imposing regulations upon those who are charged with the recruiting, engaging, and management of labourers, Government must bear its responsibility in the matter of inspecting operations. For that purpose the mining areas have been divided up and Inspectors provided for, whose functions will be to guard the interests of natives working on the mines, to supervise contracts, and to prevent such abuses as forced labour, ill-treatment, and coercion. They will, at the same time, insist upon the natives performing their contracts and take measures for the detection and adequate punishment of deserters.

These Inspectors require to be men of good standing, and to be adequately paid.

Upon the subject of recruiting, I have already given expression to the conviction, and desire to reiterate it, that it is, both in the interests of justice and business, undesirable for Magistrates or other Officers of Government to be employed to recruit labour. The labourers should feel certain that, in case of dispute or grievance, they always have an impartial forum to appeal to. If a Magistrate becomes a recruiting agent, his individuality is prejudiced, and all sense of confidence in him is liable to be lost, not from any fault of his, but from the fact that he is placed in a false position towards those he is deputed to advise and govern.

The alternative is to recognise the status and regulate the procedure of independent labour recruiting agencies or Associations.

More especially is this desirable, seeing that, when opportunities are afforded for the Witwatersrand Mines to be fully developed, at least 100,000 additional native labourers will be in immediate demand, and these, together with those already at work, and those required for other industries and domestic purposes, may expand the native population in the Mining Area to 200,000.

It may be taken as assured that, were Government Officers called upon to produce such numbers, the tendency might be to bring pressure, and to create the very

order of things which His Majesty's Government condemns, viz., involuntary labour, against which the spirit of all present legislation is directed.

One of the irritating features of the past at the Gold Fields was that labourers were condemned to bear the cost of their expensive recruiting and other exactions caused by the procedure of venal agents. The tribute was paid by deduction from wages, so that for the first month or two, but little accrued to the worker. Under the proposed regulations no deduction whatever is allowed from wages, except for fines lawfully inflicted. The cost of taking out and renewing the Passport is thrown upon the employer. The Government takes it upon itself to see that the native receives the wage he contracts for, undiminished.

It is proposed to relieve certain coloured persons of the operation of laws relating to Passes, with power to embrace such other laws as may, from time to time, be deemed advisable. A large latitude of exemption is reserved. I cannot think it would be expedient to define too closely what classes or nationalities should come within its scope. To do so would be to include many disreputable people who suffer themselves to be the media of crime, and to exclude others who are deserving of liberal treatment.

The amendment of the Liquor Law, by which the sale, barter, or supply of intoxicating liquor to coloured persons is made prohibitive, and severe penalties for contravention are provided, is, in my opinion, a measure calculated to do justice to the native population, who do not know what is bad for them, and have not the strength of character to withstand temptation. The law is only a modification of that existing under the old Government, and differs from it mainly in dealing with greater stringency with the persons who supply liquor to natives.

There are many sides to the native question, administrative and political, which it would be premature now to enlarge upon. There is much yet to be learnt by those who are vested with the control of native affairs and every reason why they should not be hurried.

Meanwhile the Administration feels its responsibility to the black races. It is necessary to make due allowance for their ignorance, defects, and infirmities, and to provide for their equitable treatment and management.

It is equally necessary to consider the sentiment and opinion of Colonists, whose life and well-being are bound up with the manner and method of native control. Their desire may fairly be interpreted to be the policy of extending paternal government in such a way as to preserve due proportions between the white races endowed with centuries of civilization, and the black races, who are centuries behind it.

In carrying out even the measures now under review considerable expenditure will be involved. In addition to the Departmental Expenditure for Native Affairs, there is all the costly machinery for Police, who are to afford protection to the native races, and of the Magistrates who will administer justice.

It is a source of gratification to me, and of importance in strengthening the views herein expressed, that Sir Richard Solomon has been closely identified with the proposed enactments, and is in general concurrence with their terms.

I feel much indebted to him for the assistance he has afforded in framing the regulations, and the experienced suggestions he has made.

He is responsible for drafting the Liquor Law Amendment and Exemption Acts, and I am in entire agreement with their Provisions.

GODFREY LAGDEN.

November 29, 1901.

No. 20.

ADMINISTRATOR LORD MILNER to MR. CHAMBERLAIN.

(Received December 28, 1901.)

High Commissioner's Office, Johannesburg,
December 6, 1901.

SIR,

THE publication this week of certain important proclamations affecting the position of natives in this colony, especially of natives working for white employers, seems a suitable occasion for me to make some remarks upon the policy which, subject

to the approval of His Majesty's Government, is being and will be pursued with regard to the native question generally in the new territories. In dealing with this matter I shall endeavour to answer, as far as is at present possible, the various questions connected with it which you have from time to time put to me, especially in forwarding the representations made to you by the British and Foreign Anti-Slavery Society and by the Aborigines Protection Society. I beg leave to refer in this connection to your despatches of January 26, February 14, and April 12.*

The final drafts of the proclamations which I have just referred to were sent you in my despatch of the 29th November,† together with a memorandum from Sir Godfrey Lagden. I entirely agree with Sir Godfrey Lagden in the remark contained in that memorandum that "There are many sides to the native question, "administrative and political, which it would be premature now to enlarge upon. There "is much yet to be learnt by those who are vested with the control of native affairs, and "every reason why they should not be hurried." At the same time I feel that while the many difficult problems which are covered by the general term "the native question" can only be dealt with gradually, and by the light of experience, it is quite possible to indicate the spirit and some of the general principles in which we intend to approach them. What these principles are will appear, to a great extent, from a careful consideration of the manner in which we are now dealing with that portion of the native question which first presented itself to the new administration. I refer especially to the recruitment of natives for working in the mines, to their supervision while working there, and to the sale of liquor.

It is evident that the equally important, though perhaps not equally difficult questions, of the government of natives working on farms, or living in their own districts, cannot be practically dealt with at present. Farming operations are suspended throughout the greater part of the country, while the large native districts in the north are for the moment under little, if any, European control. The Boers have virtually abandoned them, while any authority at present exercised there by us is purely military, and confined to one or two principal places which are in military occupation.

This great branch of native administration cannot therefore be thoroughly taken in hand for the moment. We can only touch the fringe of it. But, inasmuch as the Aborigines Protection Society in their letter of the 11th January,‡ enclosed in your despatch of 14th February,§ attach, and rightly attach, great importance to it, and explain their views concerning it at some length, it may be desirable briefly to state what are the intentions of this Administration as at present advised with regard to this matter. In all districts in which there is a large independent native population, the control of native affairs will be in the hands of a Native Commissioner directly responsible to Sir Godfrey Lagden, and the greatest care will be taken that these Commissioners, who will occupy an important position in the Government service, and receive considerable salaries, are men of high character, intimately acquainted with native laws and habits, having the interests of the natives at heart, and, as far as possible, familiar with their language. We are in fact seeking for men of the same class as the best of those who have rendered native administration a success in Basutoland, in the Protectorate, and in the Transkei. We shall require at least five such Commissioners with younger men under them as Assistant Commissioners who will be trained in their school. The only appointment at present made, and indeed the only one at present required, is that of Mr. Mooney, who has been sent to make a start in Zoutpansberg. He was one of the best of Sir Godfrey Lagden's able assistants in Basutoland, and is essentially of the type I have attempted to describe. Without the right men I need hardly say the best principles and the best laws are, in the matter of native administration, almost useless. I am, therefore, entirely in accordance with Sir Godfrey Lagden in desiring to see the Native Commissioners most carefully selected. In this respect the slow settlement of the country, for other reasons so deplorable, has its advantages, as it gives us more time to look round and carefully pick our agents. In doing so the great importance of a knowledge of the native languages, which forms the

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* No. 5; the despatches of 14th February and 12th April transmitted a copy of Nos. 2 and 3 and Nos. 8 and 9 respectively.

† No. 19. ‡ No. 3. § Not printed.

subject of your despatch of 12th April,* will be borne in mind. There have been and are some splendid Native Administrators whose linguistic attainments are poor, and it would be folly to waste such men for that reason merely. But other things being equal, the man who can converse fluently with the natives in their own language has a great advantage, and every encouragement will be given to the acquisition of this aptitude.

As regards the methods of government to be adopted, I am in general agreement (and in saying this I speak also for Sir Godfrey Lagden and the other members of the Administration) with most of the principles laid down in the letters already referred to. That is to say, I agree with the Aborigines Protection Society that native institutions should not be unnecessarily interfered with ; that their existing system of communal tenure and of tribal government, and their traditional customs, as far as they are not in gross conflict with civilised ideas, should be respected ; that they should not be compelled by force or induced by fraud to leave their own country for service with white men ; and that their taxation should be in proportion to the services rendered and the benefits bestowed upon them by our Government. Finally, I think, though this is not a point specially touched upon by the Society, that much more should be done for the education of the natives than has ever yet been attempted in the Transvaal. I do not mean that they should be educated like Europeans, for their requirements and capacities are very different, but that they should be trained to develop their natural aptitudes for their own good and that of the community. Undoubtedly the greatest benefit that could be bestowed upon them or South Africa generally would be to teach them habits of regular and skilled labour. So far from sharing the prejudices, which seem to be felt by some of your correspondents, against any form of inducement to the natives to work for whites, I think that, as long as the inducements are legitimate, the more natives that are engaged in mining and other industrial pursuits the better for them and for the country. But while saying this I desire once for all formally to disclaim, on behalf of this Administration, any desire or intention to compel natives to enter into the service of white employers by any means whatever.

Perhaps there is nothing more which can be said with advantage at present on the subject of the government of natives in their own districts. I return, therefore, to the more immediately pressing question of the protection and control of the natives voluntarily leaving their homes to enter the service of whites, which is the subject of the Proclamations just issued. The immediate reform of the existing laws dealing with this matter has been forced upon the Government by the resumption of the mining industry (though, as you are aware, it is as yet being resumed only on a small scale), and by the influx of a certain number of native labourers from the North who are seeking employment on the mines. It was also necessary to provide for the still greater influx, shortly, as we hope, about to take place from the neighbouring Portuguese territory, which has always furnished a great proportion of the mine labourers, and where there are at present a very large number anxious to come, as soon as the Government of that territory will allow them.

It is difficult for anyone reading the Proclamations without a knowledge of local circumstances, as it would have been even more difficult for anyone reading the old laws, to disentangle from their detailed provisions the main lines of administration which they embody, But I think I can put briefly before you the principal points in which the new laws differ from the old.

Before doing so, however, I wish to make one general remark. It would not be easy to exaggerate the evils of the old system, the confusion, the demoralization, the injustice to natives and the loss to employers, which formerly made the condition of native labour in the mining areas of the Transvaal a crying scandal, and a constant source of complaint alike to the friends of the natives and the representatives of the mining industry. But it was not so much bad laws which were to blame for this, as very bad administration. The root idea of the old Pass Law was not a wrong one. If aboriginal natives are to come and go in large numbers in search of labour, and to reside for considerable periods in the midst of a white community, there must be some passport system, else the place will be a

* Not printed ; it transmitted copies of Nos. 8 and 9.

pandemonium. Alike for the protection of the natives and for the protection of the whites, it is absolutely essential to have some reasonable arrangements by which the incoming native can be identified, and his movements traced. Nor is it unjust, indeed it is necessary, that when he has freely entered into a contract he should be bound to observe the terms of it, just as the other party should be bound to discharge the obligations which by that contract he undertakes towards the native. It was not the Pass Law as a whole (I am not speaking of certain harsh provisions of it, now removed) but the abuses connected with it, and especially the irregular exactions to which the natives were subjected in obtaining and renewing their passes, which made the old system so unfair. And the same remark applies in other directions. The old law did not admit the principle of compulsion, yet in fact natives were in many cases compelled to work on terms not voluntarily or not intelligently accepted by themselves. The law against supplying natives with liquor was severe, yet an enormous proportion of them were constantly drunk.

The improvement of the laws is therefore merely a first step. It is only sound and honest administration which can make the best of laws of any use. Among the changes at present being introduced I attach perhaps the greatest importance to those provisions which are intended to improve the character of the men having the most intimate dealing with the natives, and to ensure to the Government an effective control of their proceedings.

To return to the laws themselves. The principal differences between the new system and the old (I am not attempting to go into minor details) are the following :—

Firstly :—The persons engaged in recruiting native labour, or in looking after the labourers when engaged and resident on the mines, are in future bound to have a licence from the Government. No man will be allowed to pursue the avocations either of a labour agent or of a compound overseer without having satisfied the Commissioner for Native Affairs of his fitness, and the permission granted to him will be cancelled if he abuses his position. Labour agents and compound overseers are also subject to severe penalties for any misconduct. In practice this is a matter of the greatest importance. Many of the worst evils of the old system were due to the existence of an irresponsible class of labour touts and to the unscrupulous proceedings of compound managers in trying to steal natives from one another. All this must be put a stop to. And the regulations now introduced for the first time will, if properly carried out, make such abuses in future impossible.

Secondly :—The Government for the first time takes upon itself the responsibility of ensuring that the native when he enters into a labour contract does so voluntarily and with a knowledge of what he is about, and of seeing that he gets what he bargains for. Under the new regulations no native can be brought into a labour district without a passport, and no passport can be granted to him except by a Government official, who has first to satisfy himself that the native understands the terms of his agreement, and that the agreement is voluntary. Moreover, labour agents who induce natives to engage themselves by wilful misrepresention are liable to fine or imprisonment and lose their licences. So much for the inception of a contract. As regards its fulfilment, the Government again steps in and by means of another class of officials—the inspectors of natives—provides a system of supervision that gives both to the native and to his employer an easy means of redress for breaches of contract. The position of inspectors is a wholly different one from what it was under the old law. Formerly they had but little power and were chiefly concerned in looking after the payment of fees. Under the present system they have nothing to do with the collection of money, but are armed with very considerable powers for redressing grievances, or for bringing them, when beyond their own power to redress, before the magistrates or the Commissioner for Native Affairs. They have also a limited jurisdiction for disciplinary purposes.

Thirdly : The system of identifying and tracing the movements of the native labourer is greatly simplified to the benefit of the native, and I trust also to the relief of his employer and of the Administration, by substituting a single passport for the number of passes which he was formerly compelled to take out under various circumstances. This one passport will accompany him from the time he leaves his home to the time when he

returns to it, and will contain a record of all his intervening services, and provide an almost perfect means of identifying him. Moreover, the passport will be in his own charge, and not kept by his employer. This may be difficult to carry out at first, owing to the great carelessness of the natives in such matters, and I fear that the Clause, which provides for renewals of passports in cases of loss, will often have to be resorted to in the immediate future. But gradually, as the natives discover the immense advantages to themselves of carefully preserving their passports, it is in accordance with all experience of their character to suppose that they will develop the habit of safeguarding them.

Fourthly :—The native will have nothing to pay for his passport (unless he loses it, in which case he has to pay for its renewal) nor will he be subject to any other deduction from the wages stipulated for in his contract. Under the old system, one of the great grievances was that the natives were subject to so many deductions from their wages, legal as well as arbitrary.

Fifthly :—No labour contract will be made for more than one year, except with the express permission of the Native Commissioner, but the native, if he deserts without cause can be compelled, in addition to any punishment inflicted upon him for desertion, to return and complete the period of service for which he contracted. In old days the period for which he contracted was unlimited.

Sixthly :—Though the native is compelled to fulfil his contract, and is liable, if he breaks it, to fine and imprisonment, he is no longer liable to be flogged for desertion, nor indeed for any offence under the Pass Law. It should be noticed that inducing a labourer to desert is also made a criminal offence, and visited with very heavy penalties. Under the old system, the frequency of desertion was one of the greatest evils, and did more than anything to create bad feeling between employer and employed. There was harshness on the one side and unscrupulous trickery on the other ; but in the great majority of cases the desertion was not so much due to any desire on the part of the native to escape his engagements, as to the temptations held out to him by unprincipled Europeans to do so. If this nefarious traffic can now be stopped, the employers of labour will undoubtedly gain more from this change for the better than they can possibly lose by any increased expense resulting from the transfer to them of costs of administration formerly borne by the natives. No doubt this traffic cannot be suppressed by legal enactments alone. I rely more upon the spirit of co-operation among the employers themselves, who have now formed themselves into an association to act together with regard to the employment of natives, instead of trying to cut one another's throats. At the same time the Government ought undoubtedly to do whatever it can to check the encouragement of desertion, with all the demoralization incidental to it, on the details of which I need not enlarge here.

But undoubtedly the greatest benefit which it is in the power of the Government to confer, alike upon mine owner and native, is the suppression of the illicit drink traffic. But this more than anything else depends, not on the terms of the law, but on its administration. In the Proclamation dealing with this matter, which forms one of the series recently sent to you, we have taken over the principle of total prohibition embodied in the legislation of the late Government. Indeed, the new law on this point differs from the old in no important particular, except that the penalties for supplying natives with drink are rendered more severe, and especially that no option of a fine is allowed. Experience has conclusively proved that the illicit liquor dealers laughed at even a heavy fine. They were generally agents of wealthy principals, who could not themselves be got at, and who, making enormous profits out of the demoralization of the native, could easily afford to pay the fines inflicted upon those who worked for them. I admit that the penalties now imposed are of great severity ; but then we have to deal with an evil of great magnitude. There is no doubt that the new administration has before it a severe struggle with one of the most powerful, as it is one of the most degraded, agencies, for making money by the corruption of one's fellow creatures. For such a conflict it ought to be armed with the strongest weapons. I do not indeed believe that, even if it is so armed, the victory will be easy. The fact that we have hitherto achieved a large measure of success causes me no illusions. It may be the case, as a leading mining man told me the other day, that the heavier expenses caused to the mines now working, by the conditions of war time, are more than compensated by the greater

sobriety of their native labourers, the extent of which he illustrated by saying that while in old times the mines which he represented always reckoned upon at least 15 per cent. on the average of their natives being incapacitated by drink, they now had only 1 per cent. This, if correct, is excellent as far as it goes, but we must not forget that the number of natives at present at work is probably not more that a seventh, perhaps not more than a tenth, of what it will be when normal conditions are restored, and that it is far easier to tackle the problem with 10,000 natives working on the mines, than with 100,000. Moreover, we have exceptional advantages at present for dealing with the "undesirables" who live by this nefarious traffic, which will not exist when martial law is removed, and when the influx of population is no longer controllable. The real fight has got to come, and it will be a great fight. All I can say is that the Administration is thoroughly alive to the momentous importance of the question, and that it has the public opinion of the respectable majority of the European inhabitants solid at its back. The real difficulty of course, is that in the control of the liquor traffic the Government has to employ hundreds of agents, and the profit to be derived from making natives drunk is so enormous that every one of these agents will be exposed to bribes, and very big bribes. But while I realise the difficulties, I also feel that we are bound, by hook or by crook, to overcome them. The whole credit of this Administration is at stake in the matter, and I feel confident that His Majesty's Government will support us in the view that no effort and no expense should be spared in carrying out a policy which, if successful, will mean a momentous triumph for civilisation in this part of the world.

There is one point of detail in connection with the Liquor Law to which I must briefly refer. The Law, as it stands, prohibits the use even of Kaffir beer in towns and on public diggings. There is a considerable difference of opinion, even among the advocates of temperance, on the question whether Kaffir beer is in itself sufficiently harmful to the natives to justify legislation against their indulging in it. Personally, I am not at all convinced that under proper control the use of it might not be allowed without injury, and even with advantage to the natives. But I have yielded to the representations of those who have the greatest experience of the management of natives on the mines, and who contend that whatever concessions may be made in this respect hereafter, if and when we have broken the back of the illicit liquor trade, it would be dangerous to allow the use of Kaffir beer now, as the permission would be almost certain to be abused, and a hole knocked in our system by which the supply of other and undoubtedly noxious drinks would be facilitated. This matter, therefore, is open to reconsideration, but I am satisfied that at the outset it is better to err on the side of rigidity than on the side of laxness. When, however, we find ourselves masters of the situation we may be able to allow the use of Kaffir beer in moderate quantities, and under proper control, in the mine compounds, although in the exceedingly well managed Kimberley compound the natives seem to be both well and happy without it. Its use by natives in their own homes the law, even as it stands, does not attempt to prevent.

The last point to which I need refer on this occasion is the Proclamation giving power to the Commissioner for Native Affairs to exempt coloured persons of a higher degree of civilisation than the mass of the aboriginal natives from the provisions of the Pass Law. It is necessary that the law itself should apply to coloured persons, as a body, for it would be neither desirable nor practicable to throw upon Pass officers and policemen the difficult and often impossible task of distinguishing between one coloured man and another, and saying who was, or who was not a "native." But on the other hand it is clear that the reasons which exist for compelling the bulk of coloured persons to be supplied with passes or passports in going hither and thither at a distance from their homes, are not applicable to those coloured persons who, like the better class of Cape boys, conform in their habits and conduct to civilised standards, and are much further removed from the raw Kaffir than they are from the European. You will remember that one of the most troublesome controversies between His Majesty's Government and the late Government of the Transvaal arose out of the oppressive treatment of Cape boys under the pass system. It is true that it was not so much the system itself as the scandalous abuses practised under it by certain Transvaal officials, against which we protested. At the same time the course of the controversy illustrated the necessity, which was finally acknowledged even by the Transvaal Government, of making some distinction in law between the treatment

of coloured persons of a superior degree of civilization and that of the ordinary native. This principle is now embodied in the Proclamation under discussion, which empowers the Commissioner for Native Affairs to grant certificates of exemption to such coloured persons as may appear entitled to them, irrespective of race, which certificates will exempt them from the necessity of taking out passes or passports. It is the intention of the Government to interpret this concession liberally, so that all respectable coloured persons may be free from unnecessary inconvenience. And the Proclamation provides that the exemption, which at present only applies to the Pass Law, may in future be extended to other laws, should there be such, which may be necessary for the special protection and control of the bulk of the Kafir population, but are not required in the case of civilised coloured men.

It is impossible for me, having regard to the demands upon my time, to go in any great length into the main features of the Proclamations. I hope I have said enough to explain their general drift.

If there are any points of detail requiring further elucidation, I will, of course, do my best to furnish it, when I know what those points are. Generally speaking, I claim for the Native Code which we are trying to introduce, and of which these Proclamations are the first instalment, that it is conceived in the best interests of the natives, and that any restrictions imposed on their personal liberty do not go beyond what is necessary, not only for the protection of the white population, but for the good of the natives themselves. Moreover, the control which it is proposed to exercise over the natives is so devised as to improve and not to degrade them.

As far as possible also, regard has been paid to laws on the same subject existing in other British Colonies in South Africa. The need of uniformity of policy in native questions is generally recognised, and, while it will probably be reserved for a Federal Parliament to frame a Native Code for all South Africa, it is incumbent on the authorities of the several States to do nothing in the meanwhile which will make that desirable consummation more difficult of attainment. As compared with the old Transvaal law the present measures are undoubtedly, in this respect, a step in the right direction.

In conclusion, I ought to say that the Administration, in framing the present measures, have had the benefit of the advice of leading colonists, thoroughly familiar with the intricacies of the old Pass Law, and with the difficulties presented by the regulation of native labour. And we have derived the greatest assistance from them. While sympathising with the objects of the Anti-Slavery Society and the Aborigines Protection Society, I cannot too earnestly protest against the tone of unjustified suspicion, and almost of hostility towards their fellow-countrymen in South Africa, running through the letters of 9th November, 1900, and 11th January, 1901,* a tone which vitiates and weakens their advocacy of the cause of the natives. Most especially would I raise a warning voice against the fatal doctrine that the Imperial Government is to deal with the native question regardless of colonial sentiment. That doctrine, absurdly enough, is often preached in the very quarters where there is the loudest demand for the immediate complete self-government of the new territories. I believe that such immediate self-government is absolutely impracticable, but for that very reason I am anxious that the Imperial authorities, being obliged for a time to deal autocratically with the affairs of the colonists, should show, not less, but more regard for colonial sentiment. To run counter to it will not only lead to the estrangement of the colonies, but it will react most injuriously upon the natives, whenever—and the time must come before many years—native and all other local affairs pass under local control.

Moreover it is a complete mistake to think that the Imperial authorities cannot do their duty by the natives without coming into conflict with colonial sentiment, always provided that they bear in mind that they have also a duty to the whites. The best colonial sentiment in this matter is not far removed from the best home sentiment, as represented for instance by temperate and reasonable advocates of native rights, such as the contributors to the collection of valuable and well-informed essays, recently published

* Nos. 1 and 3.

by the "Native Races Committee." And the two points of view tend more and more to approximate to one another. On the one hand, there is now a better appreciation at home of the difficulties confronting the colonists, and of the impracticability of governing natives, who, at best, are children, needing and appreciating a just paternal government, on the same principles as apply to the government of full-grown men. On the other hand there is an increasing recognition on the part of the colonists of the heavy responsibility involved in the government of a vast native population, and of the duty and necessity of raising them in the scale of civilisation. But this hopeful process of approximation would be utterly upset if the Imperial Government were to approach this delicate question in the prejudiced and ill-informed spirit which seems to animate many well-meaning people at home, but which would be justly resented by the whole of white South Africa, including those men who are most active in the defence of native rights.

This remark applies especially to the question of native labour. According to the Anti-Slavery Society, while the treatment of the natives by the Boers in the Transvaal "is well known to have been utterly lacking in humanity, their treatment by British colonists, it is to be feared, has not been, in practice, much better," for "the native . . . has been exploited for the purpose of obtaining cheap labour, and condemned to a lot which is one of oppression and servitude."

And the Aborigines Protection Society, while it does not level against the whole European population of this Colony an accusation quite so reckless, is evidently haunted by the fear that the Government can be made the cat's paw of the mining industry, to procure labourers for them by compulsion, and to arbitrarily reduce the rate of wages. I can only say that, whatever ill-considered remarks on this subject may at times be thrown out at shareholders' meetings, the leaders of the mining industry in this country have never made the faintest suggestion that the Government of the Colony should do any such thing. The idea that the Government should obtain labourers for them, by compulsion or otherwise, or that they should use their power to fix the rate of wages, has never been even hinted to me. Of course, the employers of labour in the Transvaal, whether farmers or mine owners, desire, like all other employers in the world, to obtain labour as cheaply as possible, though they would be sanguine indeed if they expected ever to get unskilled Kaffir labour for the wages which would be joyfully accepted by unskilled labourers in many European countries. And if, by combination among themselves, they can prevent those wages from being forced up to a preposterous pitch, cramping not only industry, but agriculture, it may well be doubted whether their action would not be beneficial rather than otherwise to the whole community, not excepting the natives themselves. But, in any case, it is no business of the Government's to interfere in the matter, nor have the mine owners suggested that it should be. What they *do* ask is that the Government should do what it can to prevent the natives, whom they have obtained at a great cost, and whose interests are safeguarded by the law in so many ways, from breaking away from their contracts in a mere access of childish levity or being tempted away by unprincipled labour thieves.

And this is surely a reasonable demand. If the Government has a duty towards the native, and should see to it that his engagement is voluntary, that faith is kept with him, and that proper provisions are made for his health and comfort, it has also a duty to his employer, and to the whole white population, whose well-being is in a hundred ways so deeply affected by the prosperity of the mines. It will be none the worse for the natives, indeed it will be all the better for them, if, while jealously protecting native interests, the Government are also animated by a spirit of fairness and friendliness to the great industry—built up by the skill, the science, the indefatigable labours, the enterprise undaunted by official bullying and discouragement, of thousands of our fellow-countrymen and other Europeans—upon the continued progress of which the welfare of the Transvaal, and indeed of all South Africa for at least a century, will mainly depend.

I have, &c.,
MILNER,
Administrator.

No. 21.

ADMINISTRATOR LORD MILNER to MR. CHAMBERLAIN.

(Received January 9, 1902.)

SIR, High Commissioner's Office, Johannesburg, December 13, 1901.

WITH references to my despatches of 29th November and 6th December,* I have the honour to enclose, for your information, six copies of Gazette Extraordinary promulgating Proclamations Nos. 35, 36, 37 and 38 of 1901.

I have, &c.,
MILNER,
Administrator.

Enclosure No. 1.—Native Passes Proclamation.
Enclosure No. 2.—Labour Agents' and Compound Overseers' Proclamation.
Enclosure No. 3.—The Coloured Persons' Exemption Proclamation.
Enclosure No. 4.—Proclamation to amend Law 19 of 1898 (Liquor Law).

Enclosure 1 in No. 21.

(Transvaal. No. 37 of 1901.)

PROCLAMATION BY HIS EXCELLENCY THE ADMINISTRATOR OF THE TRANSVAAL.

WHEREAS it is expedient to make better provision for regulating the entry of natives into the Transvaal from places beyond the borders thereof and their return thereto; for the departure from the Transvaal, or the return thereto, of natives residing therein; for the protection and security of natives travelling within the Transvaal; and for the control and regulation of native labourers on public diggings.

Now, therefore, by virtue of the authority in me vested, I do hereby proclaim, declare, and make known as follows:—

Governor power to make Regulations.

1. The Administrator of the Transvaal may from time to time make Regulations for any of the following purposes, and provide penalties for the contravention thereof:—

(1.) For regulating the entry of natives into this Colony from any place beyond the borders thereof and their return thereto; their travelling from place to place in this Colony; and their sojourn therein.

(2.) For regulating the travelling from place to place within this Colony of natives residing therein; their departure therefrom to places beyond the borders thereof and their return thereto.

(3.) For regulating the introduction and supply of native labour on public diggings in this Colony and ensuring the better control of natives in service on such diggings.

Such regulations shall, on publication in the *Gazette*, be of full force and effect.

Penalty for contravention of Regulations.

2. Any person knowingly contravening any of the Regulations made under this Proclamation shall be liable to the penalties provided thereby, and in the absence of any penalties expressly provided in such Regulation he shall be liable to pay a fine not exceeding *ten* pounds, or in default of payment thereof to imprisonment for a term not exceeding six months, with or without hard labour, or to both such fine and such imprisonment: Provided that one half of any fine may be awarded by the Court by which it is imposed to the informer on whose information such person shall have been convicted.

Moiety may be awarded to informer.

Persons harbouring or aiding natives in violation hereof to be deemed guilty of a contravention.

3. Any person who shall harbour any Native contravening any of the aforesaid Regulations, or who shall in any way aid or abet any Native to contravene the same, shall on conviction be liable to the penalties provided in the last preceding section.

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* Nos. 19 and 20.

Definition of terms.

4. The term "Native" in this Proclamation and the regulations thereunder, shall include every male person above the age of fourteen years belonging to any of the aboriginal races or tribes of Africa south of the Equator, and every male person one of whose parents belongs to any such race or tribe as aforesaid; the term "Employer" shall, in the case of a Company, mean the Responsible Manager thereof, and if there be no manager then the person registered as responsible for the control, management, and direction thereof; the term "Labour District" shall mean any area proclaimed as such by the Administrator; and the term "District" shall mean an area subject to the jurisdiction of a Court of Resident Magistrate.

What are Labour Districts.

The areas defined as Labour Districts by Law No. 23, of 1899, shall be Labour Districts under this Proclamation until altered as aforesaid.

Appointment of Native Inspectors.

5. (1) It shall be lawful for the Administrator from time to time to appoint in each Labour District so many Inspectors of Natives as he may think necessary, whose duty it shall be—

(*a*) To enquire into and redress if possible or otherwise to report to the Commissioner for Native Affairs any grievances complained of by Natives employed in or about any Mine within such District as aforesaid.

(*b*) To enquire into and determine all breaches of discipline and minor contraventions of Regulations made under this Proclamation by any such Natives as aforesaid.

(*c*) To hear and determine any matter or dispute of a civil nature between any such Natives as aforesaid.

When such matter or dispute is in reference to money alleged to be due to one Native by another an order by the Inspector for the payment of such money may be discharged by the employer and deducted by him from any wages due to the Native against whom such order was made.

(2) Every such employer shall afford every facility in his power required for such investigation by an Inspector, and any employer refusing to do so shall be guilty of an offence against this Proclamation, and shall be liable, on conviction by any Court of Resident Magistrate, to a fine not exceeding *fifty* pounds, and in default of payment to imprisonment, with or without hard labour for a term not exceeding six months.

Powers of Inspectors.

6. For the purpose of enquiring into and determining such grievances, disputes, breaches of discipline, and contraventions of regulations, such Inspector as aforesaid shall have the following powers :—

(1.) He may examine witnesses on oath. Any person giving false evidence in any such enquiry shall be deemed guilty of perjury, and shall be liable to the penalties provided by law for the commission of that crime.

(2.) He may, on finding any native guilty of a breach of discipline or a contravention of any regulation, impose a fine on him not exceeding *five* pounds, and in default of payment, the employer of such native shall withhold the said amount from any wages due to such native and pay it over to the Inspector for the benefit of the Colonial Treasury.

No deduction to be made from wages of native.

7. No deduction otherwise than as provided by the last preceding sections, or by a sentence of a competent Court, shall be made from the wages of any Native.

Regulations in schedule to be of full force until revoked.

8. The regulations in the schedule to this Proclamation shall be of full force and effect until revoked or amended, and there shall be paid on the "passes" and "passports" in the said regulations mentioned the fees therein prescribed.

Proclamation, Transvaal, No. 23 of 1901, applies to Passports.

9. The term "District Pass," wherever it occurs in Proclamation Transvaal No. 23 of 1901 shall be taken and read as "Labour Identification Passport," and the term "Native" in the said Proclamation shall be covered by the definition of that term in Section 4 of this Proclamation.

10. It shall be lawful for the Administrator to establish at every Pass Office in a Labour District guard rooms of adequate size in which it shall be lawful to detain for a period not exceeding *six* days any native suspected of desertion from the service of his employer.

Repeal of Laws.

11. The following Laws shall be and are hereby repealed :—

Law No. 22 of 1895.
Law No. 23 of 1899,

and so much of any other Law as may be inconsistent with or repugnant to the provisions of this Proclamation.

12. This Proclamation may be cited for all purposes as the "Native Passes Proclamation, 1901," and shall take effect from and after the second day of January next. Title, and taking effect of Proclamation.

God Save the King.

Given under my hand and seal at Johannesburg this 10th day of December, 1901.

Milner,
Administrator.
G. V. Fiddes,
Secretary to the Transvaal Administration.

By Command of His Excellency the Administrator.

Schedule.

A.—General Pass Regulations.

1. No Native shall, save as is hereinafter excepted, enter or leave this Colony, unless he be in possession of a Pass, duly issued for that purpose. All natives travelling must have passes.

2. Any Native who has obtained a Pass to proceed to any place within the Transvaal, issued by an authorised Pass Officer in any British Territory in South Africa may travel in the Transvaal to such place upon having such Pass endorsed by the Pass Officer in this Colony who is conveniently nearest the place where such native has entered it. Foreign passes.

3. Any native residing on a farm, or on any private property in this Colony or in a Government native location who desires to travel within the district in which he resides for the purpose of visiting, or on the business of his employer, may do so upon a permit or note issued by the owner of the farm or private property on which he resides, or by an official appointed by the Administrator to issue such notes or permits to Natives residing in such location as aforesaid, or by his employer, as the case may be. Within district travelling.

Such permit or note shall bear the date when, and shall state the purpose for which it was issued.

4. Any native within this colony who desires to go and work or seek work at any place other than within a labour district, or who desires to go beyond the district in which he resides on his own business or that of his employer, shall obtain an Official Travelling Pass in the form hereto annexed and marked I. G., on which he shall pay the sum of *one* shilling. Within district travelling.

5. No pass to travel shall be issued to any native apparently suffering from infectious disease. Infectious disease.

6. In order to prevent vagrancy and habitual idling, any native found wandering abroad without a proper pass or travelling otherwise than in the direction indicated in his pass may be apprehended by any officer authorised by law to arrest, or by any person upon whose property he is found, and shall be forthwith brought before the nearest officer empowered to deal with offences against the Pass Law. Apprehension without passes.

7. (1.) No person may employ or take into his service any native who is not provided with a proper pass, which such employer shall demand from him and retain in his possession until the expiration of his period of service, when it shall be returned to him with an endorsement thereon by the employer, correctly dated, of the discharge of such native from his employ; and on the production thereof to any Pass Officer, such native shall be entitled, without any charge, to a pass entitling him to return to his home. No employment without passes.

(2) This regulation shall not apply to the owner or lessee of a farm employing a Native residing thereon.

8. Any person who unlawfully deprives a Native of his Pass, or maliciously withholds it from him, or maliciously destroys or alters it, or who grants a permit to a Native to travel who is not in his employ, or who forges a Pass, shall be liable to a fine not exceeding *fifty* pounds, and in default of payment, to imprisonment, with or without hard labour for a term not exceeding six months. Penalty for withholding pass.

9. No railway ticket shall be issued to a Native unless he is in possession of a permit, note, or Pass, issued under these regulations. No railway ticket without a pass.

Exemptions.

10. No Native coming within the following list of exemptions shall be required to take out a Pass to enter, leave, or travel within this Colony.

(*a*) Native Police or Messengers while on the service of the Government of this Colony.

(*b*) Any Native driver or leader in the employ of a European master whilst actually engaged as such, and producing a Pass signed by his employer.

(*c*) Any Native to whom a letter of exemption has been granted by the Commissioner for Native Affairs.

(*d*) Any Native in the employ of and travelling in the company of a European master or mistress, residing in or coming into the Transvaal: Provided that this exemption shall in each case extend to not more than three Natives.

11. Any Native who shall claim to be exempted from taking out a Pass by virtue of the provisions of Section (*c*) of the foregoing Regulation, may be required to satisfy any Magistrate, Pass Officer, or Police Officer that he is entitled to exemption, either by production of his letter of exemption, or otherwise.

Not more than one on a pass.

12. No Pass shall include the name of more than one person; provided that when any Native taking out a Pass is accompanied by his wife or children under the apparent age of *fourteen* years, a note made on the Pass referring to and setting forth the name of the wife and number of children shall be a sufficient authority for such wife and children to enter or leave or travel within the Colony under such Pass.

Pass may be refused.

13. A Pass Officer shall have the discretion to refuse to issue or endorse a Pass to any Native to enter or depart from this Colony or travel therein for any reason appearing to him sufficient.

Procedure thereupon.

14. If a Pass Officer shall refuse to issue or endorse a pass, he shall report such refusal to the Resident Magistrate of the district, who shall direct the Pass Officer to issue the same or not, as he shall deem fit.

Reference to Commissioner for Native Affairs.

15. The Commissioner for Native Affairs shall have full authority and discretion in any case to order that a Pass shall be issued or refused to any native, notwithstanding any prohibition or other provision contained in these regulations.

Lost passes.

16. Any native who shall have lost his pass shall be required to obtain a duplicate thereof from the Pass Officer, on payment of the proper fee.

Natives under contract.

17. Every Pass Officer shall enquire of every native who applies for a pass to seek work, or for an endorsement of his pass to return home, whether he is under an unexpired contract of service, and any applicant making a false statement in reply to such enquiry shall be deemed guilty of a contravention of these regulations.

18. No pass shall be granted to a native who is known by the Magistrate or Pass Officer to be under an unexpired contract of service, except with the consent, in writing, of the employer.

19. It shall not be lawful for any Native to enter and be upon the property of any person (unless he be in such person's employ) without the permission of the person in charge of such property, or without a note from his employer stating the object for which he is on such property; an open delivery note accompanying goods from a merchant or other tradesman shall be considered as such a note.

20. The above Regulations shall apply to all Districts in this Colony, including Labour Districts, except in so far as they may be in conflict with the next succeeding Regulations. The expression "Pass" in these Regulations shall, in Labour Districts, include the "Identification Labour Passport" hereinafter referred to.

B—Regulations for Labour Districts.

Identification labour passes.

1. Any native residing in the Transvaal, or coming from beyond the borders thereof, desiring to work within any labour district, or being at the date of the taking effect of these regulations under contract of service within any labour district, must be provided with an identification labour passport, hereinafter referred to as a passport, in the form her to annexed and marked I.L., which shall be filled in as required thereby, *and shall be held by him during his period of service*, and shall be available to him for travelling to and from his destination. A passport shall contain a complete record by which the holder may be identified and his movements traced, and shall in any Court of Law be *primâ facie* evidence of the facts therein recorded. It shall not be available after final endorsement for return home for any purpose other than for such return.

2. Passports may be obtained of all Pass Issuers in the Transvaal, and at any other place outside the Colony notified in the *Gazette*.

Natives with Labour Agents. Procedure in matter of coercion or faulty agreement

3. Every Native accompanied by a licensed Labour Agent shall, before being granted a passport, be questioned by the Pass Officer as to the terms of his agreement of service, and whether such service is voluntary on his part. In the event of it being found that there was coercion or misrepresentation on the part of the Labour Agent in obtaining the service of such Native, or that the agreement of service is in other respects void, such Native may be sent back to his home at the expense of the Labour Agent or his employer.

Registration after arrival.

4. Every Native engaged by a Labour Agent to work in any Labour District must within three days after his arrival therein proceed to the Pass Office to have his passport registered, and the Pass Officer shall in a book, to be kept by him and called the "Pass Register," record the name of his employer, and the terms of his agreement of service. On every such registration there shall be paid by the employer a fee of one shilling.

Procedure for Natives travelling independently.

5. (1) Every Native under a contract of service within any Labour District at the date of the taking effect of this Proclamation shall forthwith obtain a Passport and have it registered at the Pass Office within such District. The name and address of the employer shall be recorded upon the Passport and also in the Pass Register on payment by such employer of a fee of one shilling.

(2) Every Native entering a Labour District to seek work, or being within such District at the taking effect of these Regulations, shall obtain a passport, and report himself at the Pass Office therein within *twenty-four* hours after arrival in such district, or within one week after the taking effect of these Regulations as the case may be, and shall thereafter be allowed six days to enable him to find an employer. The employer when found shall cause the said Passport to be registered and his name and address to be recorded thereon and also in the Pass Register. On every such registration there shall be paid by the employer a fee of *one shilling*.

(3) During the said period of six days, such native shall return every night and report himself to the Pass Office. If he fail to find employment within the period aforesaid, his passport shall be endorsed to return home, or to proceed to another labour district, at the discretion of the Pass Officer; in the latter case the provisions of this section shall apply to such native on his arrival within such other labour district.

(4) Any native who is found in a Labour District without a Passport or who fails to report himself as aforesaid, or who remains in thatlabour district longer than one day after his Passport has been endorsed, shall beliable to pay a fine not exceeding five pounds, and in default of payment to imprisonment, with or without hard labour, not exceeding one month.

(5) Every native shall be bound, on demand of any Pass Official, to state all the particulars required to be entered upon his Passport. Any native who shall wilfully, and with intent to deceive such Pass Official, give false particulars shall on conviction be liable to the penalties provided in the last preceding Sub-section.

Native travelling in Labour District must be provided with permit by his employer.

6. Any native employed within a labour district, sent by his employer on business beyond the boundaries of the town or municipality in which he resides or who, with the consent of his employer, travels within such district shall be provided by such employer with a special permit in addition to his passport. Such permit shall not extend beyond three consecutive days, and shall set forth the object for which it is granted and the date of its issue.

No Native may enter on any property without consent of person in charge thereof or a note from his employer.

7. It shall not be lawful for any Native to enter and be upon the property of any company or person (unless he be in the employ of such company or person) without the permission of the person in charge of such property, or without having in addition to his passport, a note from his employer, stating the object for which he is on such property; an open delivery note accompanying goods from a merchant, shopkeeper, and any other tradesman, shall be considered as such a note.

Monthly fee.

8. Upon every passport in use there shall be payable in advance by the employer of the holder thereof a monthly fee of *two shillings*, which may for any period not exceeding six months be paid in one sum; provided that—

(1) Any native wishing to become in any labour district a daily labourer or to follow any occupation by which he is not under any contract of service to any particular person, shall obtain a permit from a duly authorised Municipal Officer, or

if such district is not within any municipality, then from the Resident Magistrate thereof, which shall entitle him to have his passport registered accordingly.

(2) Such passport shall be registered as if the person on whose permit it was issued were the employer and the fee upon such registration and the monthly fees thereon payable under this section shall be paid by such native.

Period of contract defined.

9. A labour contract or agreement with any Native shall not, unless with the special sanction of the Commissioner for Native Affairs, extend beyond one year, which shall consist of not less than 313 working days, after which it may be renewed by endorsement upon his passport, but the yearly contract shall not be deemed to have expired unless the Native shall have actually worked for such 313 days.

Procedure upon termination of contract.

10. (1.) Upon termination of such contract as is referred to in the last preceding regulation, the employee shall be entitled, unless such contract be renewed or a new contract made by him, to demand from his employer endorsement of his passport to return home.

Upon renewal.

(2) The renewal of a contract or the making of a new one shall be endorsed on the passport, and the terms and particulars thereof registered at the Pass Office of the District in which such contract is to be performed.

Natives seeking new contracts.

11. Any Native who upon the termination of his contract of service desires time to seek another employer may be allowed six days for that purpose, during which period he shall return every night to the Pass Office of the District in which he is seeking work, and the provisions of Regulation No. 5 shall apply to such Native.

Fraudulent contracts.

12. Any Native who while under contract of service to one employer shall knowingly enter the service of another employer, shall on conviction be liable to a fine not exceeding *ten* pounds, and in default of payment to imprisonment, with or without hard labour, for a term not exceeding three months ; and any employer who knowingly engages and takes into his service a Native, while the latter is still bound by a contract of service to another employer, shall on conviction be liable to a fine of *fifty* pounds, and in default of payment, to imprisonment, with or without hard labour, for a term not exceeding *six* months.

Employers not to engage Natives already under contract

Desertion during term of contract.

13. Any Native who shall be guilty of desertion, or shall leave the service of his employer with intent to desert before the term of his contract of service with such employer shall have expired, shall be liable to a fine not exceeding *ten* pounds, and in default of payment, to imprisonment, with or without hard labour, for a term not exceeding *three* months ; and after having satisfied the sentence imposed on him, he shall, if his employer so desire be ordered to return to work and to complete the term of his contract.

Deserter how to be treated after punishment.

Returning pass in case of desertion or casualty.

14. Upon the death or desertion of any native, the person in whose employ he was at the time he died or deserted, shall as soon as possible report such fact for registration to the Pass Office at which his passport was registered.

Record of casualties.

At every office at which passports are registered (hereinafter referred to as a Registry Office), a book shall be kept for the registering of native deaths.

Lost passes procedure.

15. Any Native who has lost his Passport may apply for a new one, which shall be supplied upon payment of a fee of *one shilling*, provided the Pass Officer to whom application is made is satisfied of the identity and *bona-fides* of the applicant.

If the loss of the Passport be due to the employer, the latter shall pay the aforesaid fee.

Employers with over 20 labourers to be registered.

16. Every employer of more than *twenty* Native labourers shall be required to keep for each month a correct account according to a form (to be had at every Registry Office), showing during each month—

(*a*) Number of Natives employed by him.

(*b*) Number of contracts with Natives made by him which have expired.

(*c*) Number of new contracts with Natives made by him.

(*d*) Number of deaths and desertions of natives employed by him.

A copy of these particulars shall, within ten days after the end of each month, be sent to the said registry office.

Such account as aforesaid shall be open for inspection by any authorised Government official.

Transfer of Natives from one district to another.

17. Any employer in a labour district having work to be done in another labour district, and wishing to transfer natives in his service to that district temporarily, shall apply in writing to, and obtain permission from, the officer at the registry office attaching

to his application a list in duplicate of the names of such natives and the numbers of their passports.

On obtaining the necessary permission he shall forward one list to the registry office in the district to which such natives are transferred.

Penalties.

18. Any person who shall illegally withhold a Passport from a Native, or who shall defraud any Native of his wages or deduct therefrom any sum of money not authorized to be deducted under this Proclamation, shall, upon conviction, be liable to a fine not exceeding *fifty* pounds, or in default of payment to imprisonment with or without hard labour for a term not exceeding *six* months.

19. It shall not be lawful for any person within any Labour District—

(*a*) To engage or have in his service any Native who has not a Labour Passport showing that such Native has been properly discharged by his last employer, or that he has not previously been employed under such Passport.

(*b*) To engage or have in his service any Native whose Passport shows that he has been discharged for longer than six days, or that he has been in the Labour District in which his Passport has been endorsed for more than six days without finding work, or whose Passport is not endorsed by the Medical Officer at the Pass Office under Proclamation Transvaal No. 23 of 1901.

(*c*) To harbour any Native who is not in his lawful employ.

(*d*) To refuse, at the request of a Native on the termination of his contract of service, to sign his discharge.

(*e*) To tamper in any way with a Passport belonging to a Native not in his employ.

(*f*) To issue permits to visit or travel to any Native not in his *bonâ-fide* employ.

(*g*) To register himself as the employer of a Native, unless it is his *bonâ-fide* intention to employ such Native.

Any person guilty of contravening any of the provisions of this regulation shall be liable to a fine not exceeding *fifty* pounds, or in default of payment to imprisonment with or without hard labour for a term not exceeding six months.

Penalties for forging passes.

20. Any person guilty of forging, imitating or altering any Passport which may in terms of these regulations have been issued by a Pass Officer, or of uttering the same, or guilty of forging and uttering counterfeit Passports, shall, upon conviction, be liable to a fine of *fifty* pounds, and in default of payment to imprisonment with or without hard labour for a term not exceeding six months ; or to both such fine and imprisonment.

Natives discharged from gaol.

21. (1.) Every native who shall have been discharged from gaol shall be sent by the officer in charge thereof to the Registry Office in the Labour District in which such gaol is, with a letter of discharge which shall state the nature of the offence for which he was punished and the term of imprisonment he has served ; and any native convicted of a criminal offence for which a fine was imposed and paid, shall be sent by the Clerk of the Court before which he was convicted to the registry office with a similar letter of discharge. Every native discharged from gaol shall, at the option of his master, be compelled to return and complete the term of his engagement.

(2.) A Native sent to the Registry Office as aforesaid, having a Passport but no master, shall be granted six days to find one.

(3.) A Native sent to the Registry Office as aforesaid not having a Passport shall have one issued to him, and shall be allowed six days to look for work.

(4.) The provisions of Regulation No. 5 shall, *mutatis mutandis*, apply to the Natives referred to in sub-sections (2) and (3) of this Regulation.

Rest houses for accommodation of natives at Pass Office.

22. The Government shall erect a rest house at each Passport Office, or where it is deemed necessary for the accommodation and rationing of Natives who are seeking work in any Labour District, and any Native accepting such accommodation shall pay a fee of 1s. a day.

Face of Form.

No. 1 G.

OFFICIAL TRAVELLING PASS.

Serial No.....

1. Name (Native)..... .....

2. Name known by..... . ..

3. Location or place of Residence.....

4. Tribe or Nationality..... .....

5. Travelling to..... .....

6. By way of (Route)..... .....

7. For purpose of..... ... .

8. Has in his possession (stock or property)..... .....

Issued at.....

Date.....190.....

STAMP.

....

Signature of Pass Officer.

No. 1 G.

OFFICIAL TRAVELLING PASS.

Serial No.....

1. Name (Native)..... .....

2. Name known by..... .....

3. Location or place of Residence.....

4. Tribe or Nationality..... .....

5. Travelling to.....

6. By way of (Route).....

7. For purpose of..... .....

8. Has in his possession (stock or property)..... .....

Issued at.....

Date.....190.....

STAMP.

....

Signature of Pass Officer.

Back of Form.

ENDORSEMENT FOR TRANSFER OR RETURN HOME.

To proceed to	Date.	Signature.	Stamp.

10654

Serial No. *Form 1 L.*

COUNTERFOIL.

1	Registered Number.....
2	Name (Native) .....
3	Name known by .....
4	Father's Native Name .....
5	Tribe or Nationality .....
6	Place of Residence .....
7	Travelling to .....
8	In Charge of .....
9	Engaged for (Employer) 1 ....
10	Engaged for (Period) .....
11	Rate of Pay (minimum) .....
12	Signature of Pass Officer .....
13	At.....
14	Date.....

Thumb Mark on Back.

Serial No. *Form 1 L.*

IDENTIFICATION LABOUR PASSPORT.

1	Reg. No..... ..... Dist.....
2	Name (Native)..... .....
3	Name known by.....
4	Father's Native Name.....
5	Tribe or Nationality.....
6	Place of Residence.....
7	Travelling to.....
8	In Charge of .....
9	Employer's Name 1.....
10	Address.....
11*	Period of Service.....
12	Rate of Pay.....
13	Date of Discharge.....
14	Employer's Signature on Discharge.....
	.....Pass Officer at.....
	on.....

* For use at Registry Office. For Character see back.

1. Immediately on engaging a Native the Employer must have his name and address registered at the Passport Office.
2. Period of service must be filled in.
3. Employer must sign discharge.
4. It is not lawful to engage a Native who has been longer than 6 days out of work.

Original Passport Stamp.

IN CASE OF RENEWAL OR EXCHANGE OF EMPLOYER.

	Employer's Name and Address.	Period of Service. From	Period of Service. To	Rate of Pay.	Date of Discharge.	Employer's Signature on Discharge.
2						
3						
4						
5						
6						

Transferred (To be filled in at Pass Office.)

To..... Date.....

Pass Officer .....

To..... Date.....

Pass Officer .....

Transfer Stamp.

Transfer Stamp.

Endorsed for Return Home

at .....

on .....

Pass Officer.

Return Stamp.

[Face of Form.]

REVENUE STAMPS.

Monthly Stamp.	Employer's Signature.	Monthly Stamp.	Employer's Signature.
1		1	
2		2	
3		3	
4		4	
5		5	
6		6	

These Revenue Stamps must be cancelled by a Pass Official.

FORM 1 L.

IDENTIFICATION LABOUR PASSPORT.

CHARACTER GIVEN BY

	1	2	3	4	5	6
Date.						
Character.						
Employer's Signature.						

THUMB MARK.

THUMB MARK

[Back of Form.]

37

Enclosure 2 in No. 21.

Transvaal No. 38 of 1901.

PROCLAMATION BY HIS EXCELLENCY THE ADMINISTRATOR OF THE TRANSVAAL.

WHEREAS it is expedient to regulate and control the procuring and engaging of natives to do work or labour within or beyond the borders of the Transvaal Colony:

Now therefore by virtue of the authority in me vested I do hereby declare, proclaim, and make known as follows:—

Governor power to make Regulations.

1. The Administrator of the Transvaal may from time to time make Regulations for the purpose of regulating and controlling the procuring and engaging of natives to do work or labour within or beyond the borders of the Transvaal; and of regulating the issue, suspension and cancellation of licences to persons exercising or desiring to exercise the calling of Labour Agents and Compound Overseers, and the fees to be paid for such licences.

Such Regulations shall, on publication in the *Gazette*, be of full force and effect.

Definition of terms.

2. The term "labour agent" shall mean and include any person who shall himself, or through agents or messengers, in his own name or otherwise procure or attempt to procure, seek for, engage, conduct, take charge of, supply or undertake to supply, natives to be employed in work or labour of any kind within the Transvaal; provided that the term "labour agent" shall not include any person who procures or engages or conducts natives for his own *bona fide* domestic or personal service or business exclusively; provided that the total number of natives so employed by him does not exceed twenty at any one time.

The term "native" in this Proclamation, and the regulations made thereunder, shall include every person belonging to any of the aboriginal races or tribes of Africa south of the equator, and every person one of whose parents belongs to any such race or tribe as aforesaid. The term "Compound Overseer" shall mean and include any person having the charge, management, or superintendence of *fifty* or more natives employed to work in any labour district. The term "Employer" shall, in the case of a company, mean the responsible manager thereof, and, if there be no manager, then the person registered as responsible for the control, management, and direction thereof.

Penalty for contravening Regulations.

3. Any person contravening any of the Regulations made under this Proclamation shall be liable on conviction to the penalties provided by such Regulation, and if no penalty be provided then to a fine not exceeding *ten* pounds, or in default of payment to imprisonment with or without hard labour for a period not exceeding six months. Any such contravention wherever committed may be summarily dealt with by any officer empowered to deal with contraventions of this Proclamation within whose jurisdiction the person accused of such contravention may be; and such officer shall, on the conviction of any person for a contravention of any of such Regulations as aforesaid, make a report thereof to the Commissioner for Native Affairs.

Regulations in schedule to be of full force until revoked.

4. The Regulations in the Schedule annexed to this Proclamation shall be of full force and effect until revoked or amended, and there shall be paid on the licences in the said regulations mentioned the fees therein prescribed.

Title.

5. This Proclamation may be cited for all purposes as the "Labour Agents' and Compound Overseers' Proclamation, 1901."

GOD SAVE THE KING.

Given under my hand and seal at Johannesburg this 10th day of December, 1901,

MILNER,
Administrator.

By Command of His Excellency the Administrator,

G. V. FIDDES,
Secretary to the Transvaal Administration.

SCHEDULE.

A.—Labour Agents.

No person to act as a Labour Agent unless licensed.

1. It shall not be lawful for any person to act as a Labour Agent within the Transvaal unless he is in lawful possession of a licence issued by the Commissioner of Native Affairs, or by any officer appointed by him thereto.

Such a licence may be issued for periods of not less than three months and not more than one year, and shall in every case expire on the thirty-first of December, of each year.

How application for licences to be made.

2. (1) Application for a licence must be made on a printed form to the Commissioner for Native Affairs, or any officer appointed by him thereto, either direct or through the Native Commissioner of the district in which the applicant wishes to exercise his calling, or in the case of any person wishing to act as a travelling Conductor of Natives, to the Native Commissioner, and if there be none, then to the Resident Magistrate of the district in which the journey is to begin.

(2) Every application for a licence must be accompanied by a statement giving the following particulars :—

(*a*) Copy of the agreement between the applicant and his employer.

(*b*) The place or places where the Natives to be engaged or conducted by him are to work.

(*c*) The name and location of the Native Chief (if any) in whose district the applicant desires to engage labourers : the route which he desires to follow (if he is a Conductor) : and in cases where the applicant proposes to receive and conduct Natives recruited beyond the borders of the Transvaal, the name or names of the person or persons who hold licences to recruit such Natives.

(*d*) Particulars of any previous licence issued to the applicant, or refused, cancelled, or suspended in any place in South Africa.

In addition to this statement, the applicant must, at the time of making his application, deposit with the officer to whom his application is made, and to the satisfaction of such officer, security to the amount of *one hundred* pounds for all charges and fines for which he may become liable.

(3) Any person wilfully giving any false particulars in such statements as aforesaid shall be deemed to be guilty of perjury, and shall on conviction be liable to the penalties provided by law for the commission of that offence.

Application must be accompanied by a report from Native Commissioner or Magistrate.

3. The application, when made through a Resident Native Commissioner or Resident Magistrate, shall, together with a confidential report by him thereon, be forwarded to the Commissioner for Native Affairs.

No licence to be granted until proper security be deposited.

4. No licence shall be granted until the aforementioned security has been deposited and the formal application and confidential report mentioned in the last preceding regulation shall have been received.

5. The licence, if granted, shall be sent to the applicant through the officer to whom the application was made.

Amount payable for a licence.

6. The amount payable for such licence shall be at the rate of *fifteen* pounds sterling for each year or portion of a year ending the thirty-first day of December in each year : Provided that in respect of licences issued after the first day of July in any year one half of the said amount shall be payable.

Term of licence.

7. The issue or renewal of a licence may be refused by the Commissioner for Native Affairs without any reason being given therefor.

Renewal of licence.

8. The granting of a licence to any person shall not confer any right to its renewal.

Cancellation of licence.

9. (1) Any Labour Agent who has been convicted of any crime and imprisoned therefor by a Court of Law or who has been convicted of any contravention of this or any other law relating to native labour or native passes, or who has had his licence cancelled or suspended in any other colony or territory in South Africa is liable to have his licence cancelled or suspended by the Commissioner for Native Affairs in this colony, in addition to any other punishment to which he may have rendered himself liable.

(2) In case of such cancellation as above the security deposited by him under Regulation No. 2 shall be forfeited to the Government.

(3.) Any labour agent who, in the opinion of the Commissioner for Native Affairs, has been guilty of any misconduct which renders it undesirable that he should be allowed to continue to carry on the calling of a labour agent under the provision of this Proclamation, is liable to have his licence cancelled.

Labour Agent may only employ natives for one employer.

10. (1.) Every Licence shall be issued to engage Natives for one employer or registered company or association of employers only, who must be registered, as provided in Regulation No. 16, and the District or Districts for which it is issued shall be clearly defined. All these particulars shall be embodied in the Licence.

(2.) Any Agent holding a Licence who desires to exercise the rights thereunder in any District other than that specified on his Licence shall, before doing so, on entering such other District for that purpose, immediately report himself to the Native Commissioner, and if there be none then to the Resident Magistrate thereof, who may grant him permission to exercise such rights as aforesaid in such District. Such permission, if granted, shall be endorsed upon the Licence.

Rights under licence not to be exercised on Public Roads and Diggings.

11. No labour agent shall be entitled to exercise the rights granted to him under his licence on any public road or thoroughfare, or within any public diggings or labour district.

No Labour Agent to have exclusive rights.

12. No labour agent shall be granted the sole and exclusive privilege of exercising the rights granted by a licence in any district or specified area.

No concession or contract by any Native Chief or Headman binding himself or his people to provide Native Labour shall be valid ; and any person inducing or attempting to induce any Native Chief or Headman so to bind himself shall be liable on conviction to a fine not exceeding *one hundred* pounds, and in default of payment to imprisonment with or without hard labour for a period not exceeding six months, and shall further, if he hold a Licence as a Labour Agent, be liable to have such Licence cancelled.

Penalty for wilful misrepresentation by Labour Agents.

13. Any person who shall by wilful misrepresentation of the terms or conditions of employment induce natives to leave this colony, or to engage themselves for work or labour either within or beyond the borders thereof, shall be liable on conviction for every such offence to a penalty not exceeding *one hundred* pounds, or in default of payment to imprisonment with or without hard labour for a period not exceeding six months, and if he hold a licence under this Proclamation he shall be liable to have the same cancelled.

Penalty for seducing servants from the service of their employers.

14. Whoever shall (whether a Labour Agent or not) directly or indirectly, either by himself or by an Agent, by offer of higher wages or other privileges, or by any other means, cause, induce, or persuade, or attempt to cause or induce or persuade, or aid or assist in causing, inducing, or persuading, any Native servant, by words or any other means, to leave his employer's service in violation of any agreement of service, whether in writing or not, shall, on conviction thereof, be liable to a fine not exceeding *fifty* pounds, or to be imprisoned, with or without hard labour, for any term not exceeding six months, or to both such fine and such imprisonment, and if a Labour Agent he shall also be liable to have his License cancelled.

Penalty for employing Natives who have deserted.

15. Whoever shall (whether a Labour Agent or not) conceal, employ, or retain, aid or abet in concealing, employing, or retaining any Native servant or apprentice who shall have deserted from the service of any master, or otherwise absconded or absented himself from such service, shall on conviction be liable to pay a fine not exceeding *fifty* pounds, or in default of payment to be imprisoned with or without hard labour for any term not exceeding six months, and to cancellation of Licence.

Registration of employers.

16. All employers of more than *twenty* Natives shall be obliged to register their names and addresses, and the average number of Natives employed by them, at the office of the Commissioner for Native Affairs not later than the 31st January of each year, and lists of such employers shall from time to time be published in the *Gazette*.

Labour Agent ceasing to be employed by person whose name appears on his licence.

17. If any licence holder ceases to be employed by the person whose name appears upon his licence, the licence shall thereupon cease and determine, and the fees already paid thereon shall not be recoverable. If a new licence is applied for no fees shall be paid in respect of the unexpired portion of the previous licence.

18. Every Employer of a Labour Agent shall, within seven days after such Agent has left his service, inform the Commissioner for Native Affairs thereof.

Publication in "Gazette" of lists of Labour Agents.

19. Lists shall from time to time be published in the *Gazette*, of Licences issued to Labour Agents, as well as of Licences which have been suspended or which have been determined, or been cancelled.

20. It shall be lawful for any Justice of the Peace, Constable, or Officer of the Law, or Native Commissioner, or Pass Officer, or Railway Traffic Manager, Assistant Traffic Manager, or Station Master employed on any of the railways in the Transvaal, or for any other person authorised thereto at any time, to demand the production of his Licence by any Labour Agent or by any person whom he may believe or suspect to be acting as a Labour Agent. Who may demand from Labour Agent production of licence.

21. Every labour agent shall provide himself with a book of forms, to be obtained on application at the office of the Commissioner for Native Affairs, and shall, on engaging any native to work under his licence, enter all the particulars required in one of such forms, which he shall deliver to the native in order that he may exhibit it to the issuer of passports, for the purpose of the identification of such native. The counterfoil must be produced to the issuer of passports by such agent if called upon to do so. Labour Agent to provide himself with book of forms.

22. These Regulations shall apply to any duly authorised officer or Agent of the Government who in the exercise of his duties may be lawfully engaged in collecting or conducting labourers for the purpose of work or labour for or on behalf of the Government; provided that it shall be competent in the case of such authorised Officer or Agent to dispense with the charge payable on Licences under Regulation No. 6. Regulations to apply to Government Agent recruiting labourers for Government work.

23. Any person exercising the calling of a Labour Agent without being provided with a Licence for that purpose, or exercising the calling of a Labour Agent in any place or in any manner other than that specified in his Licence, shall, for every such offence, be liable on conviction, to imprisonment, with or without hard labour, for any period not exceeding six months. Penalty for exercising calling of a Labour Agent without a Licence.

24. Any person who shall fail or refuse forthwith to give or deliver up any Licence which has been suspended or cancelled or which has expired by effluxion of time shall be liable to a penalty not exceeding *fifty* pounds, or, in default of payment, to imprisonment for any period not exceeding six months. Penalty for refusing to give up a Licence which has been suspended or cancelled.

25. Any person who knowingly and wilfully employs or causes to be employed as Labour Agent any person not in possession of a Licence shall, for every such offence be liable, on conviction, to imprisonment, with or without hard labour, for any period not exceeding six months, and to a penalty not exceeding *five hundred* pounds. Penalty for employing as a Labour Agent a person not having Licence.

B.—Compound Overseers.

1. It shall not be lawful for any person to act as a compound overseer within the Transvaal unless he be in lawful possession of a licence issued by the Commissioner for Native Affairs, or by any officer appointed by him thereto. No person to act as Compound Overseer without Licence.

2. In the event of the death, absence on leave or duty, or sickness of a licenced compound overseer, his employer shall have the right to appoint a substitute, subject to the approval and confirmation of the Commissioner for Native Affairs, and such substitute shall act for such overseer without taking out any licence for such period as the said Commissioner may approve not exceeding the unexpired period of the licence held by such overseer as aforesaid. Substitute may be appointed on death, absence on duty or sickness of Compound Overseer.

3. (1) Licences may be issued for a period of not more than one year on payment of an amount at the rate of £1 per month in advance. Conditions for issue of Licence.

(2) Applications, on printed form, must be made to the Commissioner for Native Affairs or any officer appointed by him to deal with such applications.

(3) Each application for a licence must be accompanied by a recommendation from the employer of the applicant.

4. The issue or renewal of a licence by the Commissioner for Native Affairs may be refused without any reason being given therefor. Licence may be refused.

5. The issue of a licence to any person shall not confer any right to its renewal.

6. (1) A compound overseer who has been convicted of any crime and sentenced to imprisonment by a court of law, or who has been convicted of any contravention of these or any other regulations relating to native labour or native passes, shall be liable to have his licence cancelled or suspended in addition to any other punishment to which he may have rendered himself liable. Licence may be cancelled on conviction of holder of any crime.

(2) Any compound overseer who, in the opinion of the Commissioner for Native Affairs, has been guilty of any misconduct which renders it undesirable that he shall be allowed to continue to carry on the calling of compound overseer under the provisions of these regulations shall be liable to have his licence cancelled. Licence may be cancelled if holder guilty of misconduct.

Employer to inform Commissioner when Compound Overseer enters or leaves his service.

7. Every employer must at once inform the Commissioner for Native Affairs when any licensed Compound Overseer enters or leaves his service.

List of Licences issued to be published in "Gazette."

8. Lists shall from time to time be published in the *Gazette* of licences issued to Compound Overseers, which are current as well as licences newly granted, suspended, determined or cancelled.

Penalty for exercising calling of Compound Overseer without a Licence.

9. Any person exercising the calling of a Compound Overseer without being provided with a licence for that purpose, shall for every such offence be liable on conviction to imprisonment, with or without hard labour, for any period not exceeding six months or to a penalty not exceeding *one hundred* pounds, or both.

Penalty for refusing to give up Licence which has been cancelled or suspended.

10. Any person who shall fail or refuse forthwith to give or deliver up any Licence which has been suspended or cancelled or which has expired by effluxion of time shall be liable to a penalty not exceeding *fifty* pounds, or in default of payment to imprisonment not exceeding six months.

Penalty for employing unlicensed person as Compound Overseer.

11. Any person who knowingly or wilfully employs or causes to be employed as Compound Overseer any person not in possession of a licence, shall for every such offence be liable on conviction to imprisonment, with or without hard labour, for any period not exceeding six months or to a penalty not exceeding *five hundred* pounds, or both.

Duties of Compound Overseer.

12. It shall be incumbent upon a Licensed Compound Overseer—

(*a*) To see that there are no native labourers in the employ of the Company or person in whose service he is in or about the compound not in possession of Registered Labour Passports ;

(*b*) To see that any transfers, new contracts or agreements or renewals, are recorded on the Passport ; and

(*c*) To afford to Inspectors of Natives, appointed by the Commissioner for Native Affairs all facilities for having access to the Natives under his charge, and to all books and accounts relating to the wages of such Natives.

Provided that any neglect of the Compound Overseer to comply with these Regulations shall not absolve the employer from the obligations imposed on him under the provisions of the Pass Regulations in force in Labour Districts.

Enclosure 3 in No. 21.

Transvaal No. 35 of 1901.

PROCLAMATION

By His Excellency the Administrator of the Transvaal.

Whereas it is desirable to relieve certain coloured persons residing in this Colony from the operation of the Law relating to passes and such other Laws as the Administrator of the Transvaal may from time to time notify :

Now therefore, by virtue of the authority in me vested, I do hereby declare, proclaim, and make known as follows :—

1. Any ordained coloured Minister of a recognised Christian denomination, any coloured person holding a certificate of qualification as an elementary teacher or any higher educational certificate from the Education Department in this or any other British Colony, and any coloured person who exercises a profession or trade may apply to the Commissioner for Native Affairs for a Letter of Exemption in the form in the Schedule hereto annexed relieving him from the operation of the Law relating to Passes or such other Laws as may from time to time be notified in the *Gazette* by the Administrator of the Transvaal.

2. (1) Every letter of Exemption shall be signed by the Commissioner for Native Affairs, and shall be registered, and a copy thereof filed in his office, and shall have endorsed thereon the date of such registration.

(2) No such Letter of Exemption shall be issued to any person applying therefor until he shall have taken an oath or declaration or affirmation of allegiance to His Majesty, His Heirs or Successors, before some person authorised to administer the same.

3. Every coloured person who has obtained a Letter of Exemption shall carry it with him, and shall produce it at the request of any Police or Pass Official, and on failure to do so shall be liable on conviction to a fine not exceeding 10s., or in default thereof to imprisonment not exceeding three days.

4. Every application for a Letter of Exemption shall be made by petition to the Commissioner for Native Affairs, and the following requirements shall be complied with by the applicant:—

(*a*) The petition must state the petitioner's full name, age, and residence, place of birth, and the length of time he has resided in this Colony; his trade or profession.

(*b*) In the case of a Minister of Religion, the petition must state the date of his ordination, the person by whom he was ordained, and the religious denomination of which he is a Minister.

(*c*) Where the petitioner is the holder of a certificate of qualification as an elementary teacher or of any higher educational certificate, such certificate must be produced by him.

5. To every such petition there shall be attached an affidavit sworn to, solemnly declared, or affirmed by the petitioner before any Justice of the Peace in this Colony verifying the allegations in the petition.

6. Any person who shall wilfully and falsely swear, solemnly declare, or affirm that his allegations in the said petition are true when in truth they are not shall be deemed to be guilty of perjury and on conviction shall be liable to the penalties by law provided for that offence.

7. The Commissioner for Native Affairs shall have full power and authority to investigate the truth of the statements contained in the petition or to require the petitioner to furnish any additional information or any explanation he may consider necessary; and the said Commissioner may for any reason which appears to him sufficient refuse to issue to such petitioner a Letter of Exemption.

8. It shall be lawful for the Administrator from time to time to notify in the "Gazette" any other Laws to be included under this Proclamation, and on such notification as aforesaid the provisions of this Proclamation shall *mutatis mutandis* apply to the Laws mentioned in such notice.

9. Every person to whom a Letter of Exemption shall be granted under this Proclamation shall from and after the date of the delivery of such Letter to him be deemed and reckoned as exempt from the provisions and operation of the Laws mentioned in the first paragraph hereof or hereafter notified in the "Gazette."

10. This Proclamation shall be cited for all purposes as "The Coloured Persons' Exemption (or Relief) Proclamation, 1901."

GOD SAVE THE KING.

Given under my Hand and Seal at Johannesburg this 10th day of December, 1901.

MILNER,
Administrator.

By Command of His Excellency the Administrator.

G. V. FIDDES,
Secretary to the Transvaal Administration.

SCHEDULE.

To All to whom these Presents shall come, Greeting:

Whereas under the provisions of the "Coloured Persons' Relief Proclamation, 1901," I am empowered to grant Letters of Exemption to any coloured person residing in this Colony and coming within any of the classes of coloured persons described in section one of this Proclamation; and whereas A.B., being at the present time residing at in the District of , has in conformity with the provisions of the said Proclamation been deemed to be entitled to be relieved from the operation of certain laws mentioned in the said Proclamation and in Government Notice :

Now know ye that by and under the powers vested in me by the said Proclamation I do hereby make known and declare that A.B. shall be and is hereby declared to be

exempted from and taken out of the operation of the laws relating to Passes and to [here mention any other Laws included in the Proclamation by Notice in the "Gazette"].

Given by me this day of in the Year of our Lord at .

(Signed)
Commissioner for Native Affairs.

Enclosure 4 in No. 21.

Transvaal No. 36 of 1901.

PROCLAMATION

To Amend Law No. 19 of 1898,

By His Excellency the Administrator of the Transvaal.

Whereas it is desirable to more effectually prohibit the sale of intoxicating liquor to coloured persons:

Now, therefore, by virtue of the authority in me vested, I do hereby declare, proclaim, and make known as follows:—

Article *six* of Law 19 of 1898, save as to the definition* of the expression "coloured person," is hereby repealed, and the following substituted in lieu thereof:—

1. No person shall sell, barter, or otherwise supply to any coloured person, wine, spirituous or malt liquor, methylated spirits or spirits of wine, or any other intoxicating brew or mixture: Provided always that liquor may be supplied to a coloured person for medicinal purposes, and in such case the burden of proof will be upon the person who supplied it to show that the liquor was required for such purpose.

Any person contravening the provisions of this Section shall, on conviction, anything to the contrary contained in Law 19 of 1898 notwithstanding, be liable:

(*a*) For a *first offence* to imprisonment with or without hard labour for a period not less than six months and not exceeding twelve months, and at the discretion of the Court in addition to such imprisonment to a fine not exceeding £250, and in default of payment to imprisonment with or without hard labour for a period not exceeding six months;

(*b*) For a *second offence* to imprisonment with or without hard labour for a period not less than twelve months and not exceeding two years, and in addition to such imprisonment, at the discretion of the Court, to a fine not exceeding £500, and in default of payment to imprisonment with or without hard labour for a period not exceeding twelve months;

(*c*) For a *third or any subsequent offence* to imprisonment with or without hard labour for a period not less than two years and not exceeding three years, and in addition to such imprisonment, at the discretion of the Court, to a fine not exceeding £1,000, or in default of payment to imprisonment with or without hard labour for a period not exceeding two years.

2. Any person being the holder of a licence under Law No. 19 of 1898 who shall be convicted of contravening the provisions of Section one hereof shall, in addition to any other penalty, forfeit his licence, and no licence shall be granted to such person or in respect of the same premises for a period of five years from the date of such conviction.

3. No coloured person shall obtain by purchase or barter wine, spirituous or malt liquor, methylated spirits, spirits of wine, or any other intoxicating brew or mixture. Any coloured person contravening the provisions of this section shall, on conviction, be liable to be imprisoned with or without hard labour for a period not exceeding three months.

4. Sections (*one*) and (*three*) of this Proclamation shall apply to the sale, purchase, or barter of the liquor commonly known as "Kafir Beer," only in any town and within an area of six miles from the boundaries thereof and on any public diggings.

5. Any case of a contravention of this Proclamation may be brought before and determined by the Resident Magistrate or Assistant Resident Magistrate within whose jurisdiction such contravention was committed, and such Resident Magistrate or Assistant Resident Magistrate shall have jurisdiction to impose any of the penalties provided for such contravention.

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* COLONIAL OFFICE NOTE.—The definition is as follows:—"The term 'coloured person' shall signify any African or Asiatic native or coloured American or St. Helena person, coolie, or Chinaman, whether male or female."

6. Article *forty-three* of the said Law No. 19 of 1898 is hereby repealed, and the following substituted in lieu thereof:

"It shall be lawful for any Police Constable, having a special written authority from a Magistrate, Justice of the Peace, or Police Officer above the rank of Inspector, at all reasonable hours to enter any unlicensed premises, or any wagon, cart, or other vehicle in which it shall reasonably be suspected that any intoxicating liquor is improperly sold or kept for sale, and search such premises, wagon, cart, or other vehicle. Any liquors found in the course of search may be seized and removed, and may be declared forfeited by any Court on conviction before it of the owner or persons found in possession thereof under the provisions of the said Law No. 19 of 1898: Provided always that when there is danger that the delay occasioned by obtaining such written authority will defeat the objects of this section, any Police Constable may exercise the powers conferred hereby without any written authority, but he shall as soon as possible report what he has done to the Commissioner of Police.

GOD SAVE THE KING!

Given under my Hand and Seal at Johannesburg this 10th day of December, 1901.

MILNER,
Administrator.

By Command of His Excellency the Administrator.
G. V. FIDDES,
Secretary to the Transvaal Administration.

No. 22.

MR. CHAMBERLAIN to ADMINISTRATOR LORD MILNER.

(Sent 4 p.m., January 21, 1902.)

TELEGRAM.

21st January. No. 5. Referring to your despatches of 29th November, 6th December and 13th December,* Proclamations affecting natives.

I approve these measures, which are in accordance with the spirit of the instructions which you received when we discussed the matter during your visit to this country, and I concur generally in your statement of the principles which are to guide the native policy of your Administration.

I recognize that it was necessary to take action at once in regard to these more pressing matters which have been dealt with, and that other branches of the native question should be left for settlement later.

You are no doubt considering the question of altering the penalty of flogging of natives under the Gold Law and other similar provisions in the Statute Book, in the light of my despatch of 17th August last,† now that all lashes under the Pass Law have been abolished.

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* Nos. 19, 20 and 21. † No. 17.

APPENDIX.

COMPARATIVE STATEMENT OF PENALTIES ON NATIVES UNDER THE PASS LAW OF THE TRANSVAAL.

Offence.	South African Republic Law of 1896.	South African Republic Law of 1899.	Proclamation 37 of 1901.	Trinidad Ordinance 19 of 1899.
1. Being without pass or having lapsed pass.	Section 14. Fine up to £3 or imprisonment with hard labour up to 3 weeks for first offence. For second up to £5 or 4 weeks' imprisonment with hard labour with lashes at discretion of Court for later offences.	Section 16. Fine £5 to £10 or imprisonment with or without hard labour, not less than 6 weeks or more than 3 months, with or without lashes up to 25.	(Section 5. Regulations.) Fine up to £5, and in default of payment imprisonment with or without hard labour up to one month.	Section 136. Maximum penalty on being unlawfully at large, imprisonment with or without hard labour for 3 months.
2. Fraudulent possession of pass and deception of Pass Officers.	Section 16. Fine not exceeding £5 with imprisonment up to one month with hard labour, or lashes up to 25.	Section 18. Fine of at least £5, or one month's imprisonment with hard labour with or without lashes up to 15, or fine up to £10, or imprisonment with hard labour up to two months, or lashes up to 20.	Forging or uttering counterfeit passes is punishable with up to £50 fine, and in default of payment six months with or without hard labour, or both (Section 20 Regulations).	Section 230. Using another man's pass, fine up to £5, or imprisonment with or without hard labour up to two months, or both. Section 232. Forging or uttering forged passes, imprisonment with or without hard labour for a year.
3. Desertion of service.	*See* below ...	Section 20. Punishable with penalties as in Section 16.	(Section 13 of Regulations.) Maximum £10 fine, and, in default of payment, imprisonment, with with or without hard labour, up to three months.	Section 142. Fine up to £5, or imprisonment up two months, or both.
4. Leaving labour district.	Section 18. Fine not exceeding £3 or one month's imprisonment with hard labour, with or without lashes. If in violation of contract up to £5 and two months.	Section 21. Minimum fine £5 or one month's imprisonment with hard labour, with or without lashes. If in violation of contract fine may be raised to £7 and imprisonment to two months.	*See* General Penalty Clause of Proclamation, Section 2.	Section 137. Absence without leave from work is punishable by fine up to £2 if male, or £1 if female. Section 213. Quitting Colony without passport is punishable by fine up to £5.

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TRANSVAAL.

PAPERS

RELATING TO

LEGISLATION AFFECTING NATIVES IN THE TRANSVAAL.

(*In continuation of* [*Cd.* 714], *July*, 1901.)

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